Volume 3

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
BION M. GREGORY
Legislative Counsel

CHAPTER 746

An act to amend Sections 16004, 16072, 16371, and 16457 of, and to add Section 16432.5 to, 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 16004 of the Vehicle Code is amended to read:

16004. (a) The department shall suspend the driving privilege of any person who willfully fails, refuses, or neglects to make a report of an accident as required in this chapter.

(b) A suspension taken under this section shall remain in effect for one year unless sooner terminated by receipt of the report of the accident or upon receipt of evidence by the department that failure to report was not willful, or upon receipt of evidence that financial responsibility as provided in Section 16022 is in effect.

(c) The driving privilege shall not be suspended under this section, and, if a suspension has been imposed and is in effect under this section, that suspension shall be terminated, if the driving privilege is suspended under Section 16370 or 16381 as the result of a judgment arising out of the same accident for which the report of the accident is required by this section. The department may suspend or reimpose the suspension of the driving privilege of a person under this section if the suspension under Section 16370 or 16381 is later set aside for a reason other than that the person has satisfied the judgment in full or to the extent provided in Chapter 2 (commencing with Section 16250) and has given proof of ability to respond in damages as provided in Chapter 3 (commencing with Section 16430).

SEC. 2. Section 16072 of the Vehicle Code is amended to read:

16072. (a) The suspension of the driving privilege of a person as provided in Section 16070 shall not be terminated until three years have elapsed from the date of the accident or until the person files and thereafer maintains proof of financial responsibility pursuant to Section 16022.

(b) The driving privilege shall not be suspended under Section 16070, and, if a suspension has been imposed and is in effect under Section 16070, that suspension shall be terminated, if the driving privilege is suspended under Section 16370 or 16381 as the result of a judgment arising out of the accident for which proof of financial responsibility was required to be established pursuant to Section 16022. The department may suspend or reimpose the suspension of the driving privilege of a person under Section 16070 if the suspension under Section 16370 or 16381 is later set aside for a reason other than that the person has satisfied the judgment in full or to the

extent provided in Chapter 2 (commencing with Section 16250) and has given proof of ability to respond in damages as provided in Chapter 3 (commencing with Section 16430).

SEC. 3. Section 16371 of the Vehicle Code is amended to read:

16371. The suspension shall remain in effect, and no license shall be issued to the judgment debtor until the judgment debtor gives proof of ability to respond in damages as provided in Chapter 3 (commencing with Section 16430), and until either the judgment is satisfied in full or to the extent provided in this chapter, subject to the exemption provided in Section 16375.

SEC. 4. Section 16432.5 is added to the Vehicle Code, to read:

16432.5. The department shall accept a single insurance certificate for the purpose of furnishing proof of financial responsibility under Section 16054, or for the purpose of furnishing proof of ability to respond in damages under Section 16431. The single certificate shall be deemed to solely certify that it is an automobile liability policy meeting the requirements of subdivision (d) of Section 16054 and shall not be deemed a motor vehicle liability policy governed by Chapter 3 (commencing with Section 16430) when the single certificate is furnished as proof of financial responsibility under Section 16054. The single certificate shall be deemed to certify that it is a motor vehicle liability policy meeting the content requirements of Section 16432 when filed as proof of ability to respond in damages under Section 16431.

SEC. 5. Section 16457 of the Vehicle Code is amended to read:

16457. Whenever proof of ability to respond in damages is required, no person of whom that proof is required shall drive any motor vehicle not covered by the certificate of proof of ability to respond in damages filed by him or her with the department, nor shall any applicant for that proof knowingly fail to disclose ownership of a motor vehicle in the application for proof of ability to respond in damages or to disclose any subsequently acquired motor vehicle.

CHAPTER 747

An act to amend Section 823 of, and to repeal Section 830 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 823 of the Unemployment Insurance Code is amended to read:

823. (a) For the purpose of payment by each school employer of all or part of the charges for unemployment compensation benefits,

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

(b) (1) For each fiscal year, except as provided in subdivisions (c) and (d), each school employer shall budget and remit on or before the last day of the calendar month following the close of each calendar quarter to the State Treasurer for deposit in the School Employees Fund in the State Treasury an amount determined by multiplying the contribution rate for the fiscal year by the total wages, including taxable wages as well as wages which would be taxable except for the limitation on taxable wages provided under Section 930, but excluding, to the extent permitted by federal law, wages paid to any individual to the extent that federal law provides for reimbursement to the State of California for all benefits paid from the Unemployment Fund to such individual based on such wages.

The administrator shall, not later than March 31 each year, notify all school employers participating in the School Employees Fund of the contribution rate for the succeeding fiscal year.

(2) As used in this section, "benefit cost ratio" means the quotient obtained by dividing the average fiscal year benefit charges to the fund for the three most recent completed fiscal years by the average fiscal year wages, as defined by Section 940, paid by all school employers participating in the fund during such three fiscal years, multiplied by 100 to express a percentage and rounded to the next higher one-hundredth of 1 percent. The contribution rate shall be such benefit cost ratio for the next fiscal year subject to the following adjustments:

(A) If the cash balance as of December 31 is less than four-tenths of 1 percent of the average fiscal year wages, as defined by Section 940, the percentage below four-tenths of 1 percent rounded to the next higher one-hundredth of 1 percent shall be added to the contribution rate.

(B) If the cash balance as of December 31 exceeds seven-tenths of 1 percent of the average fiscal year wages, as defined by Section 940, the percentage over seven-tenths of 1 percent rounded to the next higher one-hundredth of 1 percent shall be deducted from the contribution rate, except that the rate shall not be less than one-tenth of 1 percent.

(c) If the administrator finds that the ability of the School Employees Fund to meet its estimated obligations promptly when due will become endangered, he or she shall from time to time increase the contribution rate otherwise provided by this section to a level estimated to be needed to protect the solvency of the fund and shall notify all school employers participating in the fund of any increased contribution rate under this authority.

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

SEC. 2. Section 830 of the Unemployment Insurance Code is repealed.

CHAPTER 748

An act to amend Section 3 of Chapter 313 of the Statutes of 1982, 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 3 of Chapter 313 of the Statutes of 1982 is amended to read:

Sec. 3. Any annual cost savings made possible by this act shall be expended by the Employment Development Department in accordance with the following priorities:

(1) Reimbursement to California's account in the federal Unemployment Trust Fund as determined by the Director of the Employment Development Department.

(2) For any other purpose designated by the Legislature by appropriate legislation, including Employment Development Department automation of client services provided by its employment service.

(3) Any annual cost savings shall be itemized in the State Budget submitted annually by the Governor.

CHAPTER 749

An act to amend, repeal, and add Section 11343 of the Government Code, and to amend, repeal, and add Sections 440 and 21101 of the Vehicle 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 11343 of the Government Code is amended to read:

11343. Every state agency shall:

(a) Transmit to the office for filing with the Secretary of State a certified copy of every regulation adopted by it except one which:

(1) Establishes or fixes rates, prices, or tariffs.

(2) Relates to the use of public works, including streets and highways, when the effect of the regulation is indicated to the public by means of signs or signals or when the order determines uniform standards and specifications for official traffic control devices pursuant to Section 21400 of the Vehicle Code.

(3) Is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.

(4) Is a building standard, as defined in Section 18909 of the Health and Safety Code.

(b) Transmit to the office for filing with the Secretary of State a certified copy of every order of repeal of a regulation required to be filed under subdivision (a).

(c) Deliver to the office, at the time of transmittal for filing a regulation or order of repeal six duplicate copies of the regulation or order of repeal, together with a citation of the authority pursuant to which it or any part thereof was adopted.

(d) Deliver to the office a copy of the notice of proposed action required by Section 11346.4.

(e) Transmit to the State Building Standards Commission for approval a certified copy of every regulation, or order of repeal of a regulation. that is a building standard together with a citation of authority pursuant to which it or any part thereof was adopted, a copy of the notice of proposed action required by Section 11346.4, and any other records prescribed by the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code).

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. 2. Section 11343 is added to the Government Code, to read:

11343. Every state agency shall:

(a) Transmit to the office for filing with the Secretary of State a certified copy of every regulation adopted by it except one which:

(1) Establishes or fixes rates, prices, or tariffs.

(2) Relates to the use of public works, including streets and highways, under the jurisdiction of any state agency when the effect of the regulation is indicated to the public by means of signs or signals.

(3) Is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.

(4) Is a building standard, as defined in Section 18909 of the Health and Safety Code.

(b) Transmit to the office for filing with the Secretary of State a certified copy of every order of repeal of a regulation required to be filed under subdivision (a).

(c) Deliver to the office, at the time of transmittal for filing a regulation or order of repeal, six duplicate copies of the regulation or order of repeal together with a citation of the authority pursuant to which it or any part thereof was adopted.

(d) Deliver to the office a copy of the notice of proposed action required by Section 11346.4.

(e) Transmit to the State Building Standards Commission for approval a certified copy of every regulation, or order of repeal of a regulation, that is a building standard together with a citation of authority pursuant to which it or any part thereof was adopted, a copy of the notice of proposed action required by Section 11346.4, and any other records prescribed by the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code).

This section shall become operative on January 1, 1984.

SEC. 3. Section 440 of the Vehicle Code is amended to read:

440. An "official traffic control device" is any sign, signal, marking, or device, consistent with Section 21400, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic, but does not include islands, curbs, traffic barriers, or other roadway design features.

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. Section 440 is added to the Vehicle Code, to read:

440. An "official traffic control device" is any sign, signal, marking, or device, consistent with Section 21400, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

This section shall become operative on January 1, 1984.

SEC. 5. Section 21101 of the Vehicle Code is amended to read:

21101. Local authorities may adopt rules and regulations by ordinance or resolution on 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 which is adopted pursuant to this subdivision 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 the California Transportation Commission by a four-fifths vote.

(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.

(f) Prohibiting entry to, or exit from, or both, from any street by means of islands, curbs, traffic barriers, or other roadway design features to implement the circulation element of a general plan adopted pursuant to Article 6 (commencing with Section 65350) of Chapter 3 of Division 1 of Title 7 of the Government Code.

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 21101 is added to the Vehicle Code, to read:

21101. Local authorities may adopt rules and regulations by ordinance or resolution on 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 which is adopted pursuant to this subdivision 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 the California Transportation Commission by a four-fifths vote.

(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.

This section shall become operative on January 1, 1984.

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 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. 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:

The recent California Supreme Court decision in Rumford v. City of Berkeley (S.F. 24239) may make some existing traffic control devices illegal. In order to keep existing traffic control devices operational until a permanent solution is developed, it is necessary that this act take effect immediately.

CHAPTER 750

An act to add Sections 5008.1 and 5008.2 to the Public Resources Code, relating to animals.

[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 5008.1 is added to the Public Resources Code, to read:

5008.1. (a) When it is determined by the director to be in the public interest, and subject to the fees, rules, and regulations of the department, visitors to units of the state park system may bring animals into those units.

(b) Any animal brought into a state park system unit pursuant to subdivision (a) shall be under the immediate control of the visitor or shall be confined, and under no circumstance shall the animal be permitted to do any of the following:

(1) Pose a threat to public safety and welfare.

(2) Create a public nuisance.

(3) Pose a threat to the natural or cultural resources of the unit or to the improvements at the unit.

(c) The department may require a person bringing an animal into

a state park system unit pursuant to subdivision (a) to provide proof of appropriate immunizations and valid licenses.

(d) This section does not apply to dogs used to lawfully pursue game in season at units of the state park system where hunting is allowed.

SEC. 2. Section 5008.2 is added to the Public Resources Code, to read:

5008.2. (a) Peace officers and other designated employees of the department may capture any animal (1) which is not confined or under the immediate control of a person visiting the unit, (2) which poses a threat to public safety and welfare, to the natural or cultural resources of the unit, or to the improvements at the unit, or (3) which is a public nuisance.

(b) Peace officers may dispatch any animal which poses an immediate or continuing threat (1) to public safety and welfare or (2) to wildlife at the unit.

(c) Owners of animals with identification that have been captured or dispatched pursuant to this section shall be notified within 72 hours after capture or dispatch.

(d) This section does not apply to dogs used to lawfully pursue game in season at units of the State Park System where hunting is permitted.

(e) The authority conferred by this section on peace officers or designated employees of the department may only be exercised on or about property owned, operated, controlled, or administered by the department.

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 751

An act to amend Sections 61306, 61312, 61317, 61371, 61375, 61377, 61378, 61381, 61382, 61383, 61384, 61385, 61391, 61441, 61531, 61572, 61801, 61802, 61805, 61807, 61810, 61839, 61894, 61901, 62143, 62146, 62402, 62702, 62704, 62705, 62717, 62723, 62725, and 62730 of, to amend the heading of Article 4 (commencing with Section 61371) of Chapter 1 of Part 3 of Division 21 of, to repeal Sections 61316, 61374, 61390, and 61808.5 of, to repeal Article 11 (commencing with Section 61581) of Chapter 1 of Part 3 of Division 21 of, the Food and Agricultural Code, relating to milk.

[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 61306 of the Food and Agricultural Code is amended to read:

61306. (a) "Distributor" means any handler, as defined in Section 61826, and includes brokers and agents and the nonprofit cooperative associations described in Article 2 (commencing with Section 61331) of this chapter in the transactions in which such article provides that the associations are distributors. It also includes both of the following:

(1) Any person who regularly operates mobile vehicles on routes predominantly for sales of market milk, market cream, or dairy products on such routes to wholesale customers.

(2) A wholesale customer only as to milk, cream, or any dairy product that is actively and directly processed, manufactured, or packaged by such wholesale customer.

(b) Distributor does not, however, include any of the following:

(1) Any wholesale customer which is not actively and directly engaged in manufacturing, processing, or packaging milk, cream, or any dairy product.

(2) Any producer that delivers milk or cream only to a distributor or manufacturer.

SEC. 2. Section 61312 of the Food and Agricultural Code is amended to read:

61312. "Packaged milk," "packaged cream," or "packaged dairy product" means market milk, market cream, or any dairy product, respectively, which is packaged in cartons, bottles, dispenser cans, or other consumer packages for sale to wholesale customers or consumers.

SEC. 3. Section 61316 of the Food and Agricultural Code is repealed.

SEC. 4. Section 61317 of the Food and Agricultural Code is amended to read:

61317. "Wholesale customer" means any person other than a distributor that buys packaged milk, cream, or any dairy product for resale to consumers or to other wholesale customers.

SEC. 5. The heading of Article 4 (commencing with Section 61371) of Chapter 1 of Part 3 of Division 21 of the Food and Agricultural Code is amended to read:

Article 4. Unlawful Practices

SEC. 6. Section 61371 of the Food and Agricultural Code is amended to read:

61371. Except as otherwise provided in Section 61372, in the marketing of market milk, cream, and dairy products, the methods

of doing business or trade practices which are described in this article, of manufacturers, distributors, producers, wholesale customers, consumers, or any representatives of them, are unfair practices and are unlawful.

SEC. 7. Section 61374 of the Food and Agricultural Code is repealed.

SEC. 8. Section 61375 of the Food and Agricultural Code is amended to read:

61375. (a) The gift, or offer, or promise of any milk, cream, dairy product, service, money, or article of any kind, except to a bona fide charity, for the purpose of securing or retaining the milk, cream, or dairy product business of any wholesale customer or consumer is an unlawful practice.

(b) The issuance of coupons, premiums, certificates, or similar devices to be redeemed in connection with the retail sale of dairy products classified as class 1, except yogurts, is prohibited. This section shall not prohibit the issuance of coupons, premiums, certificates, or similar devices to be redeemed in connection with the retail sale of yogurts, and dairy products other than those classified as class 1, if all the costs incurred in the issuance and redemption is borne by the person issuing and redeeming the coupons, premiums, certificates, or similar devices. The issuance and redemption of premiums, coupons, certificates, and similar devices in connection with the retail sale of dairy products, to the extent permitted under this section, shall otherwise comply with all the requirements of this chapter.

SEC. 8.5. Section 61377 of the Food and Agricultural Code is amended to read:

61377. The extension to any wholesale customer or consumer of any special price or service which is not made available to all wholesale customers or consumers that purchase any milk, cream, or dairy product of like quantity under like terms and conditions is an unlawful practice.

SEC. 9. Section 61378 of the Food and Agricultural Code is amended to read:

61378. The allowance or gift of any money, credit, or compensation, or the lending of anything of value, to a wholesale customer for advertising or display in connection with the sale of dairy products classified as class 1, except yogurts, is an unlawful practice.

When any such payment or loan is permissible, it shall apply only to products sold under a seller's own registered brand. The cost of any such allowance shall be borne by the seller.

The director shall report to the Assembly Committee on Agriculture and the Senate Committee on Agriculture and Water Resources on or before January 2, 1982, and on or before January 2, 1983, on whether or not significant market disruptions have occurred since January 1, 1981. This report shall include trends in the production of buttermilk and cottage cheese before and after

removal of the advertising allowance prohibition on these products.

SEC. 10. Section 61381 of the Food and Agricultural Code is amended to read:

61381. Any false or misleading advertising, as defined in Sections 32914 and 36062 of this code, and Sections 17500, 17501, and 17502 of the Business and Professions Code, of milk, cream, or any dairy product is an unlawful practice.

SEC. 11. Section 61382 of the Food and Agricultural Code is amended to read:

61382. Discrimination in price between distributors or between wholesale customers, or between consumers, that purchase milk, cream, or any dairy product of like grade and quality under like conditions of service if the effect of that discrimination may be substantially to lessen competition or to injure or destroy or prevent competition with the person that either grants or knowingly receives the benefit of the discrimination is an unlawful practice. This section does not, however, prevent differentials which make only due allowance for differences in the cost of the raw product which is used in the milk, cream, or dairy product, or the cost of manufacture, processing, sale, or delivery which results from the different methods or quantities in which the commodities are manufactured, processed, sold, or delivered.

SEC. 12. Section 61383 of the Food and Agricultural Code is amended to read:

61383. The sale or offer to sell or giving of any article in any transaction which involves the sale or disposal of milk, cream, or any dairy product, for less than the cost of the article, as "cost" is defined in Section 61384, to secure or retain the milk, cream, or dairy products business of any wholesale customer or any person that buys as a consumer is an unlawful practice.

SEC. 13. Section 61384 of the Food and Agricultural Code is amended to read:

61384. The sale by any wholesale customer, manufacturer, distributor, including any producer-distributor or nonprofit cooperative association acting as a distributor, of milk, cream, or any dairy product at less than cost is an unlawful practice.

Cost as applied to manufacturers and distributors, as used in this section, means the cost of raw product, plus all costs of manufacturing, processing, handling, sale, and delivery, including overhead costs. Cost as applied to wholesale customers, as used in this section, means invoice or replacement cost, whichever is lower, plus the cost of doing business of the wholesale customer.

"Cost of raw product," in the case of market milk and market cream, whether or not the market milk or market cream is used in the processing or manufacture of any dairy product, means the applicable minimum price of the market milk or market cream, if any, payable by distributors to producers pursuant to stabilization or marketing plans in effect pursuant to Chapter 2 (commencing with Section 61801) of this part. The definition of "cost of raw product,"

as applied to sales on a bid basis to public agencies or institutions, is, however, applicable only to market milk or market cream which is utilized for class 1 purposes, as such purposes are defined in Chapter 2 of this part.

Proof of cost, based on audits or surveys, made in accordance with generally accepted cost accounting procedures, establishes a rebuttable presumption of that cost at the time of the commission of the unlawful practice which is described in this section. This presumption is a presumption affecting the burden of proof, but it does not apply in a criminal action. The director shall establish by regulations pursuant to Section 61341 the procedures which shall be considered as "generally accepted cost accounting procedures." These procedures are those which are found by the director to accurately determine actual costs.

SEC. 14. Section 61385 of the Food and Agricultural Code is amended to read:

61385. Any false statement or representation which is knowingly made, by any wholesale customer or consumer, or anyone that is acting on the behalf of either, to any distributor or manufacturer, or any representative of a distributor or manufacturer, that a competitor of the distributor or manufacturer has offered or is offering to sell, or is selling milk, cream, or any dairy product to the wholesale customer or consumer at a lower price than the manufacturer or distributor has offered or is offering to sell, or is selling it is an unlawful practice.

SEC. 15. Section 61391 of the Food and Agricultural Code is amended to read:

61391. Solicitation by, or collusion or joint participation between or among, any manufacturer, distributor, producer, wholesale customer, retail store, consumer, or any representative of any of them, to commit any of the unlawful practices which are prescribed in this article, or the use of any misrepresentation, threat, intimidation, or boycott to effectuate the commission of those unlawful practices, makes any person that participates in those unlawful practices subject to the penalties of this chapter.

SEC. 16. Section 61390 of the Food and Agricultural Code is repealed.

SEC. 17. Section 61441 of the Food and Agricultural Code is amended to read:

61441. Every distributor, person who sells at wholesale, or manufacturer of milk, cream, or any dairy product shall maintain and keep, for a period of one year from their initial recordation, or for a period of one year from their expiration date, whichever period is longer, all of the following records:

(a) A record of all milk, cream, or dairy products received, detailed as to location, names and addresses of suppliers, prices paid, and deductions or charges made, and the use to which such milk or cream was put.

(b) A record of all milk, cream, or dairy products sold, classified

as to kind and grade of milk, cream, or dairy product, showing where such milk, cream, and dairy products were sold, the quantities sold, the amounts received for such sales, and the written price schedules maintained by the distributor, person who sells at wholesale, or manufacturer for all milk, cream, and dairy products sold.

(c) A record of the wastage or loss of milk or any dairy product.

(d) A record of all costs of manufacturing, processing, handling, sale, and delivery, including overhead costs.

(e) A record of all property or financial transactions, other than those for which records are maintained under subdivision (b) of this section, between the distributor, person who sells at wholesale, or manufacturer and wholesale customers.

(f) Such other records as the director may deem necessary for the proper enforcement of this chapter.

SEC. 18. Section 61531 of the Food and Agricultural Code is amended to read:

61531. Any money in the Department of Food and Agriculture Fund which was derived under this chapter and Chapter 2 (commencing with Section 61801) of this part may be expended for the administration and enforcement of any or all of the provisions of those chapters, notwithstanding any other provision of law which limits the expenditure of any such money to the specific purposes or to the administration or enforcement of each of those chapters separately.

SEC. 19. Section 61572 of the Food and Agricultural Code is amended to read:

61572. Any person that violates any provision of this chapter is liable civilly in an amount not less than fifty dollars ($50) and not exceeding five hundred dollars ($500) for each and every violation, that sum to be recovered by the director in any court of competent jurisdiction. The amount of penalty which is assessed pursuant to this section on each count of violation shall be based upon the nature of the violation and the seriousness of the effect of the violation upon effectuation of the purposes and provisions of this chapter. Any sum which is recovered under this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 20. Article 11 (commencing with Section 61581) of Chapter 1 of Part 3 of Division 21 of the Food and Agricultural Code is repealed.

SEC. 21. Section 61801 of the Food and Agricultural Code is amended to read:

61801. The production of market milk is hereby declared to be a business affected with a public interest. The provisions of this chapter are enacted in the exercise of the police powers of this state for the purpose of protecting the health and welfare of the people of this state.

SEC. 22. Section 61802 of the Food and Agricultural Code is amended to read:

61802. The Legislature hereby declares all of the following:

(a) Market milk is a necessary article of food for human consumption.

(b) The production and maintenance of an adequate supply of healthful market milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare, and the production, transportation, processing, and storage of market milk in this state is an industry affecting the public health.

(c) Because of the perishable quality of milk, the nature of milk production, the varying seasonal production and demand factors, and other economic factors affecting the milk industry, the potential exists for economic disruption, in the absence of regulation, in the production, marketing, and sale of market milk which may constitute a menace to the health and welfare of the inhabitants of this state and may tend to undermine sanitary regulations and standards of content and purity, however effectually the sanitary regulations may be enforced.

(d) Health regulations alone are insufficient to prevent economic disturbances in the production of milk which may disrupt the future supply of market milk and to safeguard the consuming public from future inadequacy of a supply of this necessary commodity.

(e) It is the policy of this state to promote, foster, and encourage the intelligent production and orderly marketing of commodities necessary to its citizens, including market milk, and to eliminate economic waste, destructive trade practices, and improper accounting for market milk purchased from producers.

(f) It is recognized by the Legislature that the economic factors concerning the production, marketing, and sale of market milk in California may be affected by the national market for milk for manufacturing purposes.

(g) It is recognized by the Legislature that in recent years the supply of manufacturing milk in California, as defined in Section 32509, has consistently declined and continues to decline, and that market milk has virtually supplanted manufacturing milk for manufacturing purposes in this state, and that it is therefore necessary to conform the pricing standards governing minimum producer prices for market milk established under this chapter to current economic conditions.

SEC. 23. Section 61805 of the Food and Agricultural Code is amended to read:

61805. The purposes of this chapter are to do all of the following:

(a) Provide funds for administration and enforcement of this chapter, by assessments to be paid by producers and handlers of market milk in the manner prescribed in this chapter.

(b) Authorize and enable the director to prescribe marketing areas and to determine minimum prices to be paid to producers by handlers for market milk which are necessary due to varying factors of costs of production, health regulations, transportation, and other factors in the marketing areas of this state. In determining minimum

prices to be paid producers by handlers, the director shall endeavor under like conditions to achieve uniformity of cost to handlers for market milk within any marketing area. However, no minimum prices established or determined under this chapter shall be invalid because uniformity of cost to handlers for market milk in any marketing area is not achieved as a result of the minimum producer prices so established or determined.

(c) Authorize and enable the director to formulate stabilization and marketing plans, subject to the limitations prescribed in this chapter with respect to the contents of the stabilization and marketing plans, and to declare the plans in effect for any marketing area.

(d) Enable the dairy industry, with the aid of the state, to develop and maintain satisfactory marketing conditions, bring about and maintain a reasonable amount of stability and prosperity in the production of market milk, and provide means for carrying on essential educational activities.

SEC. 24. Section 61807 of the Food and Agricultural Code is amended to read:

61807. Nothing in this chapter permits or authorizes the development of conditions of monopoly in the production of market milk. In the establishment of the terms and conditions under which market milk shall be purchased from producers, the terms and conditions are those which will, in the several localities and markets of the state, and under the varying conditions of production, insure an adequate and continuous supply of pure, fresh, wholesome market milk to consumers of the market milk.

SEC. 25. Section 61808.5 of the Food and Agricultural Code is repealed.

SEC. 26. Section 61810 of the Food and Agricultural Code is amended to read:

61810. The provisions of Chapter 1 (commencing with Section 61301) and Chapter 3 (commencing with Section 62700) shall be liberally construed as being complementary of, and supplemental to, this chapter. This chapter, Chapter 1 (commencing with Section 61301), and Chapter 3 (commencing with Section 62700) shall be liberally construed as constituting a single comprehensive scheme for the regulation of the production and handling of market milk. However, each of the chapters, and each provision, article, section, subdivision, sentence, clause, and phrase of each chapter is severable. If one of the chapters or any provision, article, section, subdivision, sentence, clause, or phrase of, or in, any one of the chapters is for any reason held void, invalid, or unconstitutional, the decision shall not affect the validity of the other chapter, or any of its provisions, articles, sections, subdivisions, sentences, clause, or phrases.

SEC. 27. Section 61839 of the Food and Agricultural Code is amended to read:

61839. "Wholesale customer" means any person except a distributor that buys packaged milk, cream, or any dairy product for

resale to consumers or to other wholesale customers.

SEC. 28. Section 61894 of the Food and Agricultural Code is amended to read:

61894. For the purposes of enforcing this chapter, the director may investigate any and all transactions, between producers and handlers, between nonprofit cooperative associations and producers, among handlers, or between handlers and wholesale customers, among wholesale customers, between handlers and consumers, or between wholesale customers and consumers. For that purpose, the director shall have access to, and may enter at all reasonable hours, any place where market milk is being stored, bottled, or manufactured, where market milk or any market milk product is being bought, sold, or handled, or where the books, papers, records, or documents which relate to those transactions are kept. He may inspect and copy those books, papers, records, or documents in any place within the state.

SEC. 29. Section 61901 of the Food and Agricultural Code is amended to read:

61901. All money received by the director pursuant to this chapter shall be paid monthly into the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 30. Section 62143 of the Food and Agricultural Code is amended to read:

62143. No person who qualifies as a handler under Section 62142 shall deal in market milk without first obtaining a license from the director. In addition, any person qualifying as a handler who purchases or handles market milk or market cream for processing or manufacture shall obtain a license for each milk plant owned or operated. The license provided for in this article is in addition to any license which is required by Division 15 (commencing with Section 32501), or by any law or ordinance of any county or municipality of this state.

Notwithstanding the provisions of Section 61832, "milk plant" as used in this article, means any place, structure, or building where a handler receives market milk and weighs, tests, standardizes, pasteurizes, homogenizes, separates, bottles or packages such milk. "Milk plant" does not include a place, structure, or building which is used for the purpose of receiving, weighing, or testing milk to be diverted or delivered to a licensed milk plant of the handler.

SEC. 31. Section 62146 of the Food and Agricultural Code is amended to read:

62146. The director may refuse to grant or renew any license if he is satisfied that any applicant, or any person connected with the applicant, either directly, or indirectly has violated any of the following:

(a) This chapter or any stabilization and marketing plan or other regulation adopted under this chapter.

(b) The unlawful trade practices provisions set forth in Article 4 (commencing with Section 61371).

(c) Chapter 3 (commencing with Section 62700) or any pooling plan established thereunder.

SEC. 32. Section 62402 of the Food and Agricultural Code is amended to read:

62402. Any person that violates any provision of this chapter, any provision of any stabilization and marketing plan, or any regulation adopted under this chapter, is liable civilly in an amount not less than one hundred dollars ($100) and not to exceed one thousand dollars ($1,000) for each and every violation. Such penalty is to be recovered by the director in any court of competent jurisdiction. The amount of penalty which is assessed pursuant to this section on each count of violation shall be based upon the nature of the violation and the seriousness of the effect of such violation upon effectuation of the purposes and provisions of this chapter. Any sum which is recovered under this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 33. Section 62702 of the Food and Agricultural Code is amended to read:

62702. It is recognized by the Legislature that currently the powers conferred upon the director by Chapter 2 (commencing with Section 61801) are inadequate to enable the dairy industry to develop and maintain satisfactory marketing conditions and bring about and maintain a reasonable amount of stability and prosperity in the production of fluid milk and fluid cream; and that to accomplish these purposes, and particularly to insure to consumers within California an adequate and continuous supply of pure, fresh, and wholesome milk at fair and reasonable prices, including a reasonable estimate of the additional supply which is needed to provide for normal fluctuations in production and in consumer demand for those products, those powers must be supplemented by the powers conferred in this chapter upon the director to equalize gradually the distribution of class 1 usage among the producers of this state.

SEC. 34. Section 62704 of the Food and Agricultural Code is amended to read:

62704. The director is authorized to develop a proposed pooling plan and to designate the proposed areas in which the plan will be made effective. He shall appoint fluid milk producers, and representatives of producers, to be the members and alternate members of a formulation committee, reasonably representative of all producers and areas to be included in the proposed pooling plan, which committee shall advise and assist the director in the establishment of the proposed pooling plan area and in the formulation of the proposed pooling plan. The pooling plan shall include all areas covered by stabilization and marketing plans under Chapter 2 (commencing with Section 61801), except any relatively isolated region of the state may be excluded therefrom, if the director, after a public hearing, finds that the inclusion of the region is not practical or in conformity with the purposes of the pooling

plan, or if he finds that the producers in the relatively isolated region do not desire to be a part of either their own or one of the pools.

SEC. 35. Section 62705 of the Food and Agricultural Code is amended to read:

62705. After the director, with the advice and assistance of the formulation committee, has formulated the proposed plan, he shall hold one or more public hearings in each proposed pooling area to be affected by the proposed plan for the purposes of considering modification of the proposed boundaries and formulating the pooling plan which will best accomplish the purposes of this chapter. Notice of the public hearings shall be given to each producer, including each member of cooperative marketing associations, who ships fluid milk to a distributor and to each distributor who receives fluid milk from producers. The procedures for the giving of notice and the conducting of the hearings shall be the same as those provided in Chapter 2 (commencing with Section 61801) for public hearings on stabilization and marketing plans.

SEC. 36. Section 62717 of the Food and Agricultural Code is amended to read:

62717. If the director finds that producers on a statewide basis have assented in writing to the proposed pooling plan submitted to them for assent, the director shall place the proposed pooling plan into effect. The director shall find that producers have assented to the plan if he finds on a statewide basis that not less than 51 percent of the total number of eligible producers in the state shall have voted in the referendum and finds one of the following:

(a) Sixty-five percent or more of the total number of eligible producers who voted in the referendum who produced 51 percent or more of the total amount of fluid milk produced in the state during the calendar month next preceding the month of the commencement of the referendum period by all producers who voted in the referendum approve the plan.

(b) Fifty-one percent or more of the total number of eligible producers who voted in the referendum who produced 65 percent or more of the total amount of fluid milk produced in the state during the calendar month next preceding the month of the commencement of the referendum period by all producers who voted in the referendum, approve the plan.

If the plan is not approved, the director may resubmit the plan, or submit a new plan, at any time after six months from the date the director announces the plan was not approved.

The director may amend the plan, after notice and public hearing has been given in the same manner as is provided in Chapter 2 (commencing with Section 61801) for stabilization and marketing plans, if he finds that the amendment is necessary to effectuate the purposes of this chapter. After the hearing, the director, upon his own motion, may make nonsubstantive amendments to the plan. The director may make substantive amendments to the plan only if producers assent to the proposed amendments at a referendum

conducted in the same manner and in the same number as provided for the referendum approving the pooling plan.

The director may terminate the plan on a statewide basis after notice and public hearing has been given in the same manner as is provided in Chapter 2 (commencing with Section 61801) for stabilization and marketing plans, if he finds that the plan is no longer in conformity with the standards described in, or will not tend to effectuate the purposes of, this chapter. The hearing may be held upon the motion of the director, and shall be held upon receipt of a petition signed by producers representing not less than 25 percent of the total number of all producers and not less than 25 percent of the total production of all producers.

The director shall submit the termination of the plan on a statewide basis in a referendum conducted in the same manner as provided for initial approval of the plan if, after notice and public hearing has been given in the same manner as is provided in Chapter 2 (commencing with Section 61801) for stabilization and marketing plans, he finds that a substantial question exists as to whether or not producers desire the plan to continue and shall submit the plan for termination upon receipt of a petition requesting termination signed by producers representing not less than 25 percent of the total number of all producers and not less than 25 percent of the total production of all producers. The plan shall be terminated if termination is favored by the same percentage of producers producing the same amount of fluid milk as required to initiate the plan.

SEC. 37. Section 62723 of the Food and Agricultural Code is amended to read:

62723. Unless otherwise defined in this chapter, the definitions contained in Chapter 2 (commencing with Section 61801) govern the construction of this chapter.

For the purposes of this chapter, the following definitions shall apply:

(a) The terms "distributor" and "processor" shall have the same definition as the term "handler" contained in Section 61826.

(b) "Equalization point" shall mean that point at which pool quota held is equal to 95 percent of production base held.

(c) "Fluid cream" shall have the same definition as the term "market cream" contained in Section 61827.

(d) "Fluid milk" shall have the same definition as the term "market milk" contained in Section 61828.

(e) "Fluid skim milk" shall have the same definition as the term "market skim milk" contained in Section 61829.

SEC. 38. Section 62725 of the Food and Agricultural Code is amended to read:

62725. The director is authorized to use money in the Department of Food and Agriculture Fund derived from assessments and fees collected pursuant to Chapter 2 (commencing with Section 61801), to the extent necessary to defray the expenses

incident to the formulation and making effective the pooling plan pursuant to this chapter, if, as soon as sufficient money is available from fees collected pursuant to this chapter, the amount shall be repaid.

SEC. 39. Section 62730 of the Food and Agricultural Code is amended to read:

62730. Any violation of any provision of this chapter, or any regulations adopted pursuant to this chapter, shall be punishable, and shall have the same effect, as a violation of Chapter 2 (commencing with Section 61801).

CHAPTER 752

An act to amend Sections 15862 and 15863 of, and to add Section 15862.5 to, the Government Code, relating to state land.

[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 15862 of the Government Code is amended to read:

15862. With the exception of property acquired for the state park system, when real property is acquired by the state pursuant to this part, jurisdiction over the property shall remain in the Department of General Services until the property is needed for the purpose for which it was acquired. The Director of General Services may transfer jurisdiction of the property to the agency for whose use it was acquired before it is needed for the purpose for which acquired if in his opinion the transfer is in the best interests of the state. The department may lease all or any portion of the property which is not presently needed on terms and conditions as the director may fix and may maintain, improve, and care for the property in order to secure rent therefrom. The department may remove or demolish buildings or other structures on the property when it is desirable to do so. It may sell or dispose of the improvements or any materials available upon the demolishing of any building or structure on the property.

SEC. 2. Section 15862.5 is added to the Government Code, to read:

15862.5. (a) All real property acquired by the state for the state parks system pursuant to this part prior to April 1 of each year, which constitutes a sufficient usable area of land for state park system purposes, shall be transferred to the Department of Parks and Recreation by July 1 of each year, unless otherwise authorized by the Legislature in the Department of Parks and Recreation's annual budget.

(b) The Director of the Department of Parks and Recreation may

request approval of the Legislature through the budget process to allow continued management of specified properties by the Department of General Services for the following reasons:

(1) A relocation obligation remains on the property which requires administration by the Department of General Services.

(2) The property had previously been used for agricultural purposes and will continue under an agricultural lease pursuant to Section 5069.1 of the Public Resources Code.

(3) The property requires demolition, maintenance, or cleanup as requested by the Department of Parks and Recreation, which the Department of General Services will contract for with an entity other than the Department of Parks and Recreation, utilizing funds authorized pursuant to Section 15863.

(4) The property was acquired with an existing lease (residential or commercial) that has not yet expired and which is not consistent with state park system purposes.

(5) All parcels within a project have not yet been acquired; or an acquisition commitment exists in the property acquisition agreement that is yet to be accomplished.

(6) Funding for operation and maintenance has not yet been budgeted or authorized by the Legislature.

(c) The Legislature may grant approval for continued management of properties by the Department of General Services for other reasons as it deems necessary.

(d) All concession, contract, lease, and rental revenues received by the Department of Parks and Recreation pursuant to subdivision (a) shall be deposited in the General Fund. The Department of Parks and Recreation shall request sufficient funds to cover its property management costs for these properties in its annual budget request submitted to the Legislature.

SEC. 3. Section 15863 of the Government Code is amended to read:

15863. The proceeds of any sale made pursuant to Section 15862 shall be deposited in the General Fund. Rentals received by the department pursuant to Section 15862 shall be deposited in the General Fund and are appropriated to the Department of General Services to maintain, improve, and care for real property acquired pursuant to this part pending the use of such property to further the postwar construction program. Any unneeded balance in the appropriation shall be transferred by the Controller on order of the Director of General Services to the General Fund.

Notwithstanding any other provision of the law, all moneys appropriated pursuant to the provisions of this section shall be available for payments required to be made pursuant to the provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

CHAPTER 753

An act to add Section 5003.3 to the Public Resources Code, relating to fish and game, 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 5003.3 is added to the Public Resources Code, to read:

5003.3. The State Park and Recreation Commission shall allow, in accordance with Section 5003.1, waterfowl hunting annually from the opening day of hunting season for ducks or geese, whichever is earlier, to and including the closing day of this season, whichever is later, as established by the Fish and Game Commission, in all of Franks Tract State Recreation Area, except within 200 feet of or on the 330 acre island known as the Little Franks Tract, which is bounded on the south and west by Piper Slough, on the north by False River, and on the east by the open water portion of Franks Tract State Recreation Area. A map of the portions of Franks Tract State Recreation Area open to hunting shall be available at the delta area office at Brannan Island State Recreation Area for examination.

SEC. 2. The Legislature finds and declares that the land acquisition for the Department of Fish and Game regional facilities, Regions V and VI, as provided for in category (e) of Item 3600-301-200 of the Budget Act of 1982 (Chapter 326, Statutes of 1982) will be made pursuant to Section 9 of Article XIX of the California Constitution.

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

In order for the act to apply at the beginning of the coming duck and geese hunting season and to acquisitions to be made during the 1982–83 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 754

An act relating to school districts.

[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 Section 39363 of the Education Code, the Bellflower Unified School District may deposit the proceeds of a sale of district surplus property in the general fund of the district for use in obtaining textbooks and supplemental materials.

SEC. 2. (a) If the Bellflower Unified School District expends the proceeds deposited in its general fund pursuant to Section 1 of this act for purposes other than major deferred maintenance or capital outlay, the State Allocation Board shall reduce the total amount of state funds apportioned to the district pursuant to Section 39619 of the Education Code or Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code, or both, by the amount expended by the district for purposes other than major deferred maintenance or capital outlay.

(b) In no event shall the reduction required in any fiscal year pursuant to subdivision (a) exceed the amount of state funds apportioned to the district in that fiscal year pursuant to Section 39619 of the Education Code or Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code, or both, but the board shall reduce any additional state funds to be apportioned to the district in the following fiscal year or fiscal years until the total reduction required pursuant to subdivision (a) is made.

SEC. 3. Due to the unique circumstances concerning the financial condition of the Bellflower Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

CHAPTER 755

An act to amend Section 4161 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 4161 of the Vehicle Code is amended to read:

4161. (a) Whenever a motor vehicle engine or motor is installed, except temporarily, in a motor vehicle which is identified on the ownership and registration certificates by motor or engine number or by both the motor and frame numbers and subject to registration under this code, the owner of the motor vehicle shall, within 10 days thereafter, give notice to the department upon a form furnished by

it containing a description of the motor vehicle engine or motor installed, including any identifying number thereon and the date of the installation. The owner of the motor vehicle shall also submit to the department with the notice the certificate of ownership and registration card covering the motor vehicle in which the motor vehicle engine or motor is installed and evidence of ownership covering the new or used motor vehicle engine or motor installed and such other documents as may be required by the department.

(b) Upon receipt of motor vehicle engine or motor change notification and other required documents, the department shall assign a distinguishing vehicle identification number to motor vehicles, other than motorcycles or motor-driven cycles registered under a motor number or motor and frame numbers. When the distinguishing vehicle identification number is placed on the vehicle as authorized, the vehicle shall thereafter be identified by the distinguishing identification number assigned.

(c) Notwithstanding any other provision of this section or any other provision of law, the department shall not register a case for any motorcycle of the push-rod type with nonjournal rods and four-stroke engines, manufactured in the United States, without proof of the destruction of the case being replaced. A determination verifying proof of destruction shall be made by the Department of the California Highway Patrol.

CHAPTER 756

An act to add Section 19262 to the Government Code, relating to state 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. The Legislature finds and declares as follows:

(1) A recent study completed by the Department of Consumer Affairs has found that tobacco smoke is a major contributor to indoor air pollution.

(2) Numerous studies have shown involuntary smoking to be a significant health hazard for several populations, including elderly people, individuals with cardiovascular disease, and individuals with impaired pulmonary (respiratory) function, including asthmatics and those with obstructive airway disease.

(3) Health hazards induced by involuntary smoking include lung cancer, respiratory infection, increased episodes of decreased exercise tolerance, decreased pulmonary function, bronchoconstriction, and bronchospasm.

(4) Nonsmokers with allergies, respiratory diseases, and those

who suffer other ill effects of breathing secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of reactions to secondhand smoke.

SEC. 2. Section 19262 is added to the Government Code, to read:

19262. Each state department shall either adopt the existing policy of the State Personnel Board on smoking, or adopt their own policy on smoking which addresses the rights of nonsmokers to a smoke-free environment in formal meetings, informal meetings, and work stations, and which allows for administration of the policy and for the resolution of conflicts regarding the policy.

Nothing in this section shall require the building of partitions between smokers and nonsmokers.

CHAPTER 757

An act to add Article 5.5 (commencing with Section 4650) to Chapter 1 of Division 3 of the Vehicle Code, relating to vehicles, 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. Article 5.5 (commencing with Section 4650) is added to Chapter 1 of Division 3 of the Vehicle Code, to read:

Article 5.5. Voluntary Common Registration Renewal Dates

4650. The department shall conduct a study on the feasibility of allowing the registered owner of more than one vehicle to request, and the department to assign, a common registration renewal date for all of those vehicles.

4651. The department shall submit a report on the progress of the study to the Legislature on or before March 1, 1983. The report shall include, but not be limited to, an analysis of the costs and benefits associated with a common registration renewal date and shall include recommendations on the owners to be eligible and any limit on the number of vehicles in common ownership to be eligible, the impact on revenues currently collected by the department, and the impact on the current year-round registration program.

4652. The department shall do one of the following:

(a) On or before July 1, 1983, except as otherwise provided in subdivision (b), establish and implement a full scale voluntary common registration renewal date program for owners of four vehicles. The director may also include in the full scale program owners of any other number of vehicles as he or she determines.

(b) On or before July 1, 1983, establish a pilot program to further study and evaluate the practical application and assess the fiscal implication of a voluntary common registration renewal date program for owners of more than one vehicle. The pilot program shall include owners of four vehicles. The director may also include in the pilot program owners of any other number of vehicles as he or she determines.

The pilot program shall terminate on July 1, 1984, unless sooner terminated by the establishment of a full scale program as described in subdivision (a).

4653. The director may establish a schedule of fees to be paid for each vehicle registered under Section 4652. The fees shall include all of the following:

(a) A pro rata motor vehicle license fee, a pro rata registration fee, any applicable weight fee, and any other fees or charges imposed for the registration of any vehicle which is assigned or reassigned a renewal date of greater or less than 12 months, in the amount equal to the fees that would have been paid for the vehicle if its registration had not been renewed under the voluntary common registration renewal date program.

(b) A service fee in an amount necessary to pay any additional costs to the department incurred as a result of the voluntary common registration renewal date program.

4654. Motor vehicle license fees, registration fees, weight and other fees, and the service fees collected pursuant to Section 4653 shall be deposited pursuant to existing provisions of law.

4655. The department shall submit a final report to the Legislature on the voluntary common registration renewal date study on or before July 1, 1984. The final report shall include, but not be limited to, a summary of the deparment's findings and recommendations.

SEC. 2. The sum of twenty-five thousand dollars ($25,000) is appropriated from the Motor Vehicle Account in the State Transportation Fund to the Department of Motor Vehicles for the purposes of Article 5.5 (commencing with Section 4650) of Chapter 1 of Division 3 of the Vehicle 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 that the Department of Motor Vehicles may complete the initial part of the study on the common registration renewal date program for multiple vehicle registration soon enough to begin the pilot program in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 758

An act to amend Sections 12505, 12705, 12706, 12707, 12713, 12715, 12724, 12725, 12727.2, 12743, 12744, 12745, 12750, 12752, 12760, 12775, 12776, 12777, 12783, 12785, 12794, 12795, 12797.2, 13480, and 13530 of, to amend and renumber Section 12500.7 of, to add Sections 12024.11, 12500.10, 12705.1, 12705.2, 12743.1, 12743.2, 12775.1, and 12775.2 to, and to repeal Sections 12719 and 12789 of, the Business and Professions Code, relating to weights and measures.

[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 12024.11 is added to the Business and Professions Code, to read:

12024.11. The director shall adopt necessary rules and regulations pertaining to the sale or advertisement of wood for fuel purposes in order to standardize quantities of measurement and to protect against deceptive marketing practices.

SEC. 1.5. Section 12500.7 of the Business and Professions Code is amended and renumbered to read:

12314. The department, by regulation, may establish criteria and procedures for certification of laboratories to perform measurement services which are determined by the director to be beyond the existing equipment capabilities of the department, or when warranted by financial or workload considerations.

The department shall recover actual costs for the certification of any laboratory from that laboratory.

The director may revoke or suspend any certification issued pursuant to this section for good cause. The director shall establish by regulation criteria to be used when revoking or suspending any certification on the basis of good cause. Any proceeding to revoke or suspend any certification shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

Measurements performed and standards certified by laboratories certified under the provisions of this section shall qualify as prima facie evidence.

SEC. 2. Section 12500.10 is added to the Business and Professions Code, to read:

12500.10. A sealer shall cause to be removed from commercial usage any weighing, measuring, or counting instrument or device sold or used in violation of Section 12500.5. The instrument or device may be either seized or marked with a tag or other suitable device with the words "unapproved device".

Upon proof of compliance with the provisions of Section 12500.5,

the sealer shall remove the tag or device bearing the words "unapproved device".

SEC. 3. Section 12505 of the Business and Professions Code is amended to read:

12505. Whenever a sealer examines any weight or measure or weighing, measuring or counting instrument and finds it to be correct as defined in subdivision (c) of Section 12500, he shall seal or mark the weight, measure, or instrument with an appropriate device approved by the department, placed so as to provide optimum visibility to the customer, showing that the weight, measure, or instrument was inspected and indicating the date of the inspection.

SEC. 4. Section 12705 of the Business and Professions Code is amended to read:

12705. A public weighmaster shall pay to the department a license fee of fifty dollars ($50) for each license year or any part thereof for the principal place of business and an additional fee of twenty dollars ($20) for each additional location where service as a public weighmaster is rendered. Any change in the legal entity of the licensed principal public weighmaster shall require the new legal entity to obtain a public weighmaster license before operating as a public weighmaster.

"License year" means the period of time beginning with the first day of the month the public weighmaster is first required to be licensed in this state and ending on the date designated by the director for expiration of the license or yearly intervals after the first renewal.

Location, for the purpose of this section, means a premise on which weighing, measuring, or counting devices are installed, and which is operated as a single business unit in the rendering of services by a public weighmaster.

SEC. 5. Section 12705.1 is added to the Business and Professions Code, to read:

12705.1. The director may assign or reassign dates for the expiration of licenses for any public weighmaster licensed pursuant to this code to carry out the purposes of changing licenses from a fiscal year to a license year as provided in Section 12705.

SEC. 6. Section 12705.2 is added to the Business and Professions Code, to read:

12705.2. (a) The director may establish a licensing year for any public weighmaster consisting of any period from two months to 11 months, inclusive, with subsequent renewals being required at yearly intervals thereafter.

(b) Whenever the license year is less than 12 months by reason of the assignment or reassignment of a renewal date by the director, the license fee as designated in Sections 12705 and 12706 shall be decreased by one-twelfth of the annual fee for each month of the period less than 12 months.

SEC. 7. Section 12706 of the Business and Professions Code is amended to read:

12706. Public weighmasters shall pay an additional license fee of ten dollars ($10) for each license year or part thereof for each deputy public weighmaster. For such fee the department shall issue a deputy public weighmaster's license.

SEC. 8. Section 12707 of the Business and Professions Code is amended to read:

12707. Each license required by this chapter shall be renewed annually, on or before the first day of the first month of the licensee's license year, by application to the director, accompanied by the annual license fee. To any fee not paid when due there shall be added a penalty equal to the amount of the license fee; except that in the following cases no penalties shall be applied:

(a) Branch location, if a statement of nonoperation is filed.

(b) Deputy weighmaster, if a statement of nonemployment is filed.

The required statements shall be filed at the time of application.

SEC. 9. Section 12713 of the Business and Professions Code is amended to read:

12713. The director shall make rules and regulations that are reasonable and necessary to carry out the following:

(a) One deputy weighmaster may sign and issue a certificate based on information received from his principal or from another deputy weighmaster who actually performed the weighing, measuring, or counting of the commodity, when both are employed by the same principal weighmaster.

(b) A principal weighmaster may sign and issue a certificate based on the results of a weighing, measuring, or counting performed by a deputy weighmaster in his employ.

(c) A weighmaster may transfer the weights, measures or counts issued by another licensed weighmaster to his own certificate under certain circumstances provided by regulation.

SEC. 10. Section 12715 of the Business and Professions Code is amended to read:

12715. In addition to the information required by this section pertaining to the weight, measure, or count of the vehicle, commodity, or article, there shall appear in an appropriate and conspicuous place on each certificate, and all copies, the following legend:

WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE

THIS IS TO CERTIFY that the following described merchandise was weighed, measured or counted by a public weighmaster, and his signature is a recognized authority of accuracy as prescribed by Chapter 7 (commencing with Section 12700) of Division 5 of the California Business and Professions Code, administered by the Division of Measurement Standards of the Department of Food and Agriculture of the State of California.

There shall also appear on each certificate and all copies, immediately above the weighmaster's signature space, the printed name of the principal public weighmaster as it appears on the license.

Each certificate shall be numbered consecutively and shall provide for the following information as applicable to the transaction:

(a) The date on which the weight, measure, or count was determined.

(b) The address or location where the weighing, measuring, or counting occurred.

(c) The complete signature of the weighmaster who determined each weight, measure, or count. In an automatic weighing system, the signature shall be defined by the director by regulation.

(d) The kind of product or article and such other information as may be necessary to identify the product or distinguish it from a like kind.

(e) The number of units of the product or article. The procedure for determining the acceptable source of this information shall be prescribed by the director by regulation.

(f) The name of the owner, or his agent, and the consignee.

(g) At least one of the following:

(1) The gross weight of the product and the vehicle or container, if only the gross weight was determined.

(2) The tare weight of the unladen vehicle or container, if only the tare weight was determined.

(3) The gross, tare and net weights when a gross and tare are used in determining the net weight.

(4) The true net weight, measure or count when no gross and tare are involved in determining the net quantity of the product.

(h) The tare weights and description of boxes, bins, pallets or other containers.

(i) The name of the carrier and the license numbers of the vehicle and each unit of a combination of vehicles being weighed.

(j) The unit of measure, such as pounds, tons, gallons, kilograms or cubic yards, used to determine the quantity.

SEC. 11. Section 12719 of the Business and Professions Code is repealed.

SEC. 12. Section 12724 of the Business and Professions Code is amended to read:

12724. When the weight or measure of a vehicle and its net contents has been recorded on a public weighmaster certificate it shall be unlawful for any person to remove a part of, or add to the net contents, before the contents are delivered to the buyer or consignee unless a correct weight certificate is obtained as prescribed by this chapter.

SEC. 13. Section 12725 of the Business and Professions Code is amended to read:

12725. When the tare weight of a vehicle or the weight of the vehicle and its contents have been recorded on a public weighmaster

certificate, it shall be unlawful for any person to alter the tare weight of such vehicle prior to the time that the net weight of the commodity has been determined and recorded on the certificate.

SEC. 14. Section 12727.2 of the Business and Professions Code is amended to read:

12727.2. The director shall establish regulations to accomplish the purposes of Section 12727 and Section 12727.1, including, but not limited to, the following:

(a) Determination, identification, marking, and certification of vehicle, container, and pallet tares.

(b) Procedures to be followed to verify the accuracy of common tares by means of representative sampling.

(c) The determination of a vehicle tare weight when the vehicle contains boxes, bins, or pallets.

(d) Authorization for the establishment and use of seasonal tare weights for fuel-consuming vehicles used in making bulk deliveries of edible agricultural commodities to shippers, processors, or other handlers.

SEC. 15. Section 12743 of the Business and Professions Code is amended to read:

12743. A private weighmaster shall pay to the department a license fee of fifty dollars ($50) for each license year or any part thereof for the principal place of business and an additional fee of twenty dollars ($20) for each additional location where service as a private weighmaster is rendered. Any change in the legal entity or the licensed principal private weighmaster shall require the new legal entity to obtain a private weighmaster license before operating as a private weighmaster.

"License year" means the period of time beginning with the first day of the month the private weighmaster is first required to be licensed in this state and ending on the date designated by the director for expiration of the license or yearly intervals after the first renewal.

"Location," for the purposes of this section, means a premise on which weighing, measuring, or counting devices are installed, and which is operated as a single business unit in the rendering of services by a private weighmaster.

SEC. 16. Section 12743.1 is added to the Business and Professions Code, to read:

12743.1. The director may assign or reassign dates for the expiration of licenses for any private weighmaster licensed pursuant to this code to carry out the purposes of changing licenses from a fiscal year to a license year as provided in Section 12743.

SEC. 17. Section 12743.2 is added to the Business and Professions Code, to read:

12743.2. (a) The director may establish a licensing year for any private weighmaster consisting of any period from 2 months to 11 months, inclusive, with subsequent renewals being required at yearly intervals thereafter.

(b) Whenever by reason of the assignment or reassignment of a renewal date by the director, the license year is less than 12 months, the license fee as designated in Sections 12743 and 12744 shall be decreased by one-twelfth of the annual fee for each month of the period less than 12 months.

SEC. 18. Section 12744 of the Business and Professions Code is amended to read:

12744. Private weighmasters shall pay a license fee of ten dollars ($10) for each license year or part thereof for each deputy weighmaster and the department shall issue a license therefor.

SEC. 19. Section 12745 of the Business and Professions Code is amended to read:

12745. Each license, required by this chapter, shall be renewed annually on or before the first day of the first month of the licensee's license year, by application to the director accompanied by the annual license fee. There shall be added, to any fee not paid when due, a penalty equal to the amount of the license fee, except that no penalty shall be applicable to the renewal of deputy weighmaster licenses.

No person shall exercise the privileges of the license unless the current license fee, and any penalty has been paid.

SEC. 20. Section 12750 of the Business and Professions Code is amended to read:

12750. Private weighmasters may employ or designate any person to act for them as a deputy weighmaster and shall be responsible for all acts performed by him. The weighmaster shall forward to the department the name of persons so appointed.

The director shall provide by rules and regulations with respect to designated commodities that:

(a) One deputy weighmaster may sign and issue a certificate based on information received from his principal weighmaster, or another deputy weighmaster, who actually performed the weighing, measuring, or counting of the commodity, when both deputies are employed by the same principal weighmaster.

(b) A principal weighmaster may sign and issue a certificate based on the results of a weighing, measuring, or counting performed by a deputy weighmaster in his employ.

All signatures required by this chapter shall be affixed at the time of issuance of the certificate.

SEC. 21. Section 12752 of the Business and Professions Code is amended to read:

12752. In addition to the information required by this section pertaining to the weight, measure, or count of the vehicle, commodity or article, there shall appear in an appropriate and conspicuous place on each certificate, and all copies, the following legend:

WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE

THIS IS TO CERTIFY that the following described merchandise was weighed, measured or counted by a private weighmaster, and his signature is a recognized authority of accuracy as prescribed by Chapter 7.3 (commencing with Section 12740) of Division 5 of the California Business and Professions Code, administered by the Division of Measurement Standards of the Department of Food and Agriculture of the State of California.

There shall also appear on each certificate, and all copies, immediately above the weighmaster's signature space, the printed name of the principal private weighmaster as it appears on the license.

Each certificate shall be numbered consecutively and shall provide for the following information as applicable to the transaction:

(a) The date on which the product or commodity was weighed, measured, or counted.

(b) The address or location where the weighing or measuring occurred.

(c) The complete signature of the weighmaster who determined the weight, measure, or count of the commodity. In an automatic weighing system the signature shall be defined by the director by regulation.

(d) The kind of product or article and such other information as may be necessary to identify the product or distinguish it from a like kind.

(e) The number of units of the product or article. The procedure for determining the acceptable source of this information shall be prescribed by the director by regulation.

(f) The name of the owner, or his agent, and the consignee.

(g) At least one of the following:

(1) The gross weight of the product and the vehicle or container, if only the gross weight was determined.

(2) The tare weight of the unladen vehicle or container, if only the tare weight was determined.

(3) The gross, tare, and net weights when a gross and tare are used in determining the net weight.

(4) The true net weight, measure, or count when no gross and tare are involved in determining the net quantity of the product.

(h) The correct identification of the vehicle, or combination of vehicles or other means by which the product was delivered. If an equipment number is used to identify a vehicle or combination of vehicles, there shall be traceability to the registered vehicle license numbers through the weighmaster's records.

(i) The unit of measure, such as pounds, tons, gallons, kilograms or cubic yards, used to determine the quantity.

SEC. 22. Section 12760 of the Business and Professions Code is

amended to read:

12760. When the weight or measure of a vehicle and its net contents have been recorded on a private weighmaster certificate it shall be unlawful for any person to remove a part of, or add to the net contents, before the contents are delivered to the buyer or consignee, unless a correct weight certificate is obtained as prescribed by this chapter.

SEC. 23. Section 12775 of the Business and Professions Code is amended to read:

12775. Each public weighmaster at large shall pay a license fee of two hundred dollars ($200) for each license year, or any part thereof, to the department. Such fee of two hundred dollars ($200) shall entitle the public weighmaster at large to render service as a public weighmaster at a principal location and at any temporary and indefinite locations as may be required by him in the pursuit of his business as a public weighmaster at large. Any change in the legal entity of the licensed principal public weighmaster at large shall require the new legal entity to obtain a new public weighmaster at large license before operating as a public weighmaster at large.

"License year" means the period of time beginning with the first day of the month the public weighmaster at large is first required to be licensed in this state and ending on the date designated by the director for expiration of the license or yearly intervals after the first renewal.

SEC. 24. Section 12775.1 is added to the Business and Professions Code, to read:

12775.1. The director may assign or reassign dates for the expiration of licenses for any public weighmaster at large licensed pursuant to this code to carry out the purposes of changing licenses from a fiscal year to a license year as provided in Section 12775.

SEC. 25. Section 12775.2 is added to the Business and Professions Code, to read:

12775.2. (a) The director may establish a licensing year for any public weighmaster at large consisting of any period from two months to 11 months, inclusive, with subsequent renewals being required at yearly intervals thereafter.

(b) Whenever by reason of the assignment or reassignment of a renewal date by the director, the license year is less than 12 months, the license fee as designated in Sections 12775 and 12776 shall be decreased by one-twelfth of the annual fee for each month of the period less than 12 months.

SEC. 26. Section 12776 of the Business and Professions Code is amended to read:

12776. Public weighmasters at large shall pay an additional license fee of ten dollars ($10) for each license year or part thereof for each deputy public weighmaster at large and for such fee the department shall issue a deputy public weighmaster at large license.

SEC. 27. Section 12777 of the Business and Professions Code is amended to read:

12777. Each license required by this chapter shall be renewed annually, on or before the first day of the first month of the licensee's license, by application to the director accompanied by the annual license fee. To any fee not paid when due there shall be added a penalty equal to the amount of the license fee. However, in the case of a deputy weighmaster, no penalties shall be applied if a statement of nonemployment is filed.

The required statement shall be filed at the time of application.

SEC. 28. Section 12783 of the Business and Professions Code is amended to read:

12783. The director shall make rules and regulations that are reasonable and necessary to carry out the following:

(a) One deputy weighmaster may sign and issue a certificate based on information received from his principal or from another deputy weighmaster who actually performed the weighing, measuring, or counting of the commodity, when both are employed by the same principal weighmaster.

(b) A principal weighmaster may sign and issue a certificate based on the results of a weighing, measuring, or counting performed by a deputy weighmaster in his employ.

SEC. 29. Section 12785 of the Business and Professions Code is amended to read:

12785. In addition to the information required by this section pertaining to the weight, measure, or count of the vehicle, commodity, or article, there shall appear in an appropriate and conspicuous place on each certificate, and all copies, the following legend:

WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE

THIS IS TO CERTIFY that the following described merchandise was weighed, measured or counted by a public weighmaster at large, and his signature is a recognized authority of accuracy as prescribed by Chapter 7.7 (commencing with Section 12770) of Division 5 of the California Business and Professions Code, administered by the Division of Measurement Standards of the Department of Food and Agriculture of the State of California.

There shall also appear on each certificate and all copies, immediately above the weighmaster's signature space, the printed name of the principal public weighmaster at large as it appears on the license.

Each certificate shall be numbered consecutively and shall provide for the following information as applicable to the transaction:

(a) The date on which the weight, measure, or count was determined.

(b) The address or location where the weighing, measuring, or counting occurred.

(c) The complete signature of the weighmaster who determined each weight, measure, or count.

(d) The kind of product or article and such other information as may be necessary to identify the product or distinguish it from a like kind.

(e) The number of units of the product or article. The procedure for determining the acceptable source of this information shall be prescribed by the director by regulation.

(f) The name of the owner, or his agent, and the consignee.

(g) At least one of the following:

(1) The gross weight of the product and the vehicle or container, if only the gross weight was determined.

(2) The tare weight of the unladen vehicle or container, if only the tare weight was determined.

(3) The gross, tare and net weights when the gross and tare are used in determining the net weight.

(4) The true net weight, measure, or count when no gross and tare are involved in determining the net quantity of the product.

(h) The tare weights of boxes, bins, pallets, or other containers.

(i) The name of the carrier and the license numbers of the vehicle and each unit of a combination of vehicles being weighed.

(j) The unit of measure, such as pounds, tons, gallons, kilograms, or cubic yards, used to determine the quantity.

SEC. 30. Section 12789 of the Business and Professions Code is repealed.

SEC. 31. Section 12794 of the Business and Professions Code is amended to read:

12794. When the weight or measure of a vehicle and its net contents has been recorded on a public weighmaster at large certificate, it shall be unlawful for any person to remove a part of, or add to the net contents, before the contents are delivered to the buyer or consignee unless a correct weight certificate is obtained as prescribed by this chapter.

SEC. 32. Section 12795 of the Business and Professions Code is amended to read:

12795. When the tare weight of a vehicle or the weight of the vehicle and its contents have been recorded on a public weighmaster at large certificate, it shall be unlawful for any person to alter the tare weight of the vehicle prior to the time that the net weight of the commodity has been determined and recorded on the certificate.

SEC. 33. Section 12797.2 of the Business and Professions Code is amended to read:

12797.2. The director shall establish regulations to accomplish the purposes of Section 12797 and Section 12797.1, including, but not limited to, the following:

(a) Determination, identification, marking, and certification of vehicle, container, and pallet tares.

(b) Procedures to be followed to verify the accuracy of common tares by means of representative sampling.

(c) The determination of a vehicle tare weight when the vehicle contains boxes, bins, or pallets.

(d) Authorization for the establishment and use of seasonal tare weights for fuel-consuming vehicles used in making bulk deliveries of edible agricultural commodities to shippers, processors, or other handlers.

SEC. 34. Section 13480 of the Business and Professions Code is amended to read:

13480. (a) It is unlawful for any person to sell any petroleum product referred to in this chapter at any place where petroleum products are kept or stored for sale, unless there is affixed to each container, receptacle, pump, dispenser, and inlet end of the fill pipe of each underground storage tank, from which or into which such product, is drawn or poured out for sale or delivery, a sign or label plainly visible consisting of the name of the product, the brand, trademark, or trade name of the product, and in the case of gasoline, diesel fuel, and other motor fuel, the grade or brand name designation.

(b) When the product is oil, as defined by Section 13401, each sign or label shall also have in letters or numerals, plainly visible, the viscosity grade classification as determined in accordance with the Society of Automotive Engineers latest recommended practice for crankcase oil or transmission and axle lubricants and shall be preceded by the letters "S.A.E.". Oil which meets specifications for more than one viscosity grade shall be labeled to show the grade or grades for which the supplier intends it for use.

(c) When the product is gasoline or alcohol, or a mixture of gasoline and alcohol, there shall be conspicuously displayed on the dispensing device at least one sign or label showing the minimum octane number or antiknock index, as defined in Section 13403, of all products sold therefrom.

(d) When the product is a motor fuel consisting of a mixture or premixture of gasoline and oil, there shall be conspicuously displayed on the dispensing device at least one sign or label stating the ratio of gasoline to motor oil.

(e) All signs or labels required by this section for retail motor fuel dispensers and containers of more than one gallon capacity shall be in letters and numerals not less than one-half inch (12.70 mm) in height. On containers of one gallon or less, the signs or labels shall be in letters and numerals not less than one-fourth inch (6.35 mm) in height and one-sixteenth inch (1.59 mm) in width.

(f) The provisions of this section pertaining to octane numbers or antiknock index and motor oil S.A.E. viscosity number grade shall not apply to products sold for aviation purposes.

(g) The provisions of this section shall apply, with respect to thinners or solvents, only to the sale, delivery, or offer for sale of the products through service stations, garages, and other retail outlets.

SEC. 35. Section 13530 of the Business and Professions Code is amended to read:

13530. (a) Nothing in this article shall be construed to apply to the price signs referred to in Article 8 (commencing with Section 13470). However, any numerals designating the net tax-included price per gallon or liter for a particular brand or trade name of gasoline or motor vehicle fuel permitted under the provisions of Article 8 (commencing with Section 13470), unless otherwise stated herein, shall be identical in numerical value with numerals designating the net tax-included price per gallon or liter for the same brand or trade name of gasoline or other motor vehicle fuel permitted under the provisions of this article.

(b) Nothing in this code is intended to require or requires that the cash or merchandise value of trading stamps be stated or set forth on any sign, statement, or other advertising media which either advertises or offers such stamps, or advertises or indicates the price of gasoline or motor fuel, whether on any dispensing apparatus or elsewhere, and which is displayed at or about any place of business offering for sale or selling gasoline or other motor vehicle fuel.

SEC. 36. 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 759

An act to amend Sections 12878.25, 12878.26, and 12878.39 of, and to add Section 12878.40 to, the Water Code, and to amend Sections 8, 9, and 17 of the American River Flood Control District Act (Chapter 808 of the Statutes of 1927), relating to flood control, 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 12878.25 of the Water Code is amended to read:

12878.25. The land within each zone, and the land within each maintenance area, if no zones are established therein, shall be conclusively presumed to be benefited by the continued operation and maintenance of the unit in accordance with the assessed valuation of the land and the improvements thereon or in accordance with its benefit product as defined in Section 12878.40, and shall be subject to assessment as provided in this article.

SEC. 2. Section 12878.26 of the Water Code is amended to read:

12878.26. Each maintenance area is a district within which assessments are collected according to the value or to the benefit product as defined in Section 12878.40 of the land therein, and the provisions of Chapter 8 (commencing at Section 54900), Part 1, Division 2, Title 5 of the Government Code shall be complied with.

SEC. 3. Section 12878.39 of the Water Code is amended to read:

12878.39. All money raised by such assessments shall be accounted for separately as to each area and zone. All such money shall be transmitted by January 1st and July 1st of each year to the department for deposit in the Water Resources Revolving Fund after deduction of the amounts to be retained by the county for the reasonable costs of its services as determined pursuant to subdivision (e) of Section 12878.40.

SEC. 4. Section 12878.40 is added to the Water Code, to read:

12878.40. (a) The Legislature hereby finds and declares that a county may face substantial expense in maintaining a roll or system which reflects both current values of property for purposes of ad valorem benefit assessments as well as the property values for general taxation mandated by Article XIII A of the California Constitution. The Legislature further finds and declares that a fair and proper benefit assessment for flood control purposes may be levied on the alternative basis of the use to which the benefited land in a maintenance area may be put.

(b) The board of supervisors of the county may evaluate the costs of maintaining a system to determine benefits according to assessed valuation of land and improvements thereon pursuant to Section 12878.35. If the board of supervisors finds that these costs would be excessive relative to the amounts to be collected, it may, in lieu of an ad valorem benefit assessment, elect to levy a benefit assessment as set forth in this section sufficient to raise the amount or amounts certified by the department. Amounts raised pursuant to this section for transmittal to the department shall be in lieu of any apportionment of county property tax revenues to the support of the maintenance area pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. The assessment authorized to be levied on each parcel under this section shall be based upon the parcel's proportionate benefit, expressed as a product of the degree of flood protection it receives, its size, and its capacity for being put to use, with respect to all other parcels in the maintenance area. Specifically, a parcel's benefit product equals the percentage benefit for the zone in which the parcel is located, as defined in Section 12878.9, multiplied by the acreage of the parcel, multiplied by the parcel's land use factor as specified in subdivision (c). Any parcel less than one-third acre in size shall be deemed to be one-third acre. For any parcel categorized as agriculture in subdivision (c), every acre over five acres shall be deemed to be one-tenth acre.

(c) The county shall assign each parcel to one of the following

land use categories, representing its current predominant land use capability, and shall assign to each parcel the land use factor corresponding to such category:

Category	Factor
(1) Waste or unusable land	0
(2) Agriculture	1
(3) Single family, residential	5
(4) Commercial, industrial, and other	10

Prior to April 1 of any year, landowners in the maintenance area may petition the board of supervisors, or the board of supervisors may on its own motion elect, to review the land use categories and land use factors herein provided. The petition shall be signed by at least 50 landowners or 10 percent of the landowners in the maintenance area, whichever is less. The board of supervisors shall thereupon give notice, pursuant to Section 6066 of the Government Code, and hold a hearing to determine whether the land use categories should be modified or increased in number and whether the land use factors should be modified. The board of supervisors may, by resolution, modify the categories and factors as in its judgment is required for fair and practical special benefit assessments for flood control maintenance. The board of supervisors may delegate to an appropriate county board or administrative body the powers and duties set forth in this subdivision.

(d) The amount assessed each parcel in the maintenance area shall be determined by the following formula: the benefit product of the parcel multiplied by the total amount to be collected in the maintenance area, divided by the sum of the various benefit products of all parcels in the maintenance area.

(e) If the county board of supervisors elects to use the benefit assessment procedure and formula provided in this section, the county may recover the reasonable costs of its services in preparing and levying the assessments. The board of supervisors shall add the amount for estimated county costs to the amount or amounts certified by the department and shall include that amount in the benefit assessment levied pursuant to this section.

(f) All other provisions of this chapter applicable to the levy of assessments shall apply to this section so far as they are or may be made applicable.

SEC. 5. Section 8 of the American River Flood Control District Act (Chapter 808 of the Statutes of 1927) is amended to read:

Sec. 8. For the purpose of constructing or purchasing necessary flood control works and acquiring the necessary property and rights therefor and otherwise carrying out the provisions of this act, the board of trustees must estimate and determine the amount of money necessary to be raised. For the purpose of ascertaining the amount of money necessary to be raised for such purposes, or any of them, the board shall cause such surveys, examinations, drawings and plans

to be made as shall furnish the proper basis for said estimate. In the estimate of the amount necessary to be raised, the board of trustees may include a sum sufficient to pay the interest on the bonds to be issued for a period of three years or less. All such surveys, examinations, drawings and plans shall be made under the direction of the engineer of the district and shall be certified by him. After receiving such report the board of trustees shall determine and declare by resolution whether or not the proposed plan of works is satisfactory and whether or not the project, as set forth in said report, is feasible, and if so, shall make an order determining the amount of bonds that should be issued in order to raise the amount of money necessary therefor, and in determining said amount, sufficient shall be included to cover the cost of inspection of works in course of construction.

Prior to the calling of the bond election hereinafter referred to the board of trustees shall cause the entire district to be divided into zones, if in the opinion of the board of trustees such division is necessary because of varying benefits to the property within the district, together with a statement as to the percentages of the sum to be raised from each of such zones for the payment of the principal and interest of the bonds of the district. The said district may be divided into as many zones as may be deemed necessary and each zone shall be composed of and include all of the lands in the district which in the opinion of the board of trustees will be benefited in like manner. Each zone shall be designated on a map or plat of the district filed in the office of the board of trustees and such designation shall show the separate boundaries of each zone and a statement of the percentage to be raised from each zone. If, in the opinion of the board of trustees, modification of the zones is appropriate in order to better reflect the benefits as then received by lands within the district from the maintenance, operation, extension, or repair of works or improvements of the district, a new map shall be prepared showing the proposed new zone boundaries with a statement of the percentage to be raised from each zone.

SEC. 6. Section 9 of the American River Flood Control District Act (Chapter 808 of the Statutes of 1927) is amended to read:

Sec. 9. Upon the filing of such map, as in Section 8 of this act provided, the board of trustees shall give notice to all persons interested in the district by publication in a newspaper of general circulation published in the district, once a week for three successive weeks, which notice shall designate the time and place of hearing by the board of trustees, at which time and place any person interested in the district may appear and object to the zones into which the district is divided, or the percentages to be raised from each of such zones. All such objections shall be in writing, verified by the person or persons making the objection, and filed with the board of trustees on or before the date fixed for such hearing. Upon such hearing, the board of trustees may change or modify any of the zones or the percentages to be raised therefrom. Such hearing may be continued

from time to time by the board of trustees by an order entered on its minutes. The location and extent of the zones within the district and the percentages to be raised therefrom shall be finally established and determined by the board of trustees and shall prevail for all purposes until any bonds to be issued by the district shall have been fully paid and discharged and until further modified pursuant to the provisions of Section 8 and this section. Findings and determination of the board of trustees as to the extent and boundaries of the zones and the percentages to be raised therefrom shall be final and conclusive.

SEC. 7. Section 17 of the American River Flood Control District Act (Chapter 808 of the Statutes 1927) is amended to read:

Sec. 17. (a) The board of trustees of such district shall at the time for fixing the general tax levy for county purposes and in the manner of such general tax levy provided, levy and collect annually each year until said bonds are paid or until there shall be a sum in the treasury of such district set apart for that purpose to meet all sums coming due for principal and interest on said bonds, a tax sufficient to pay the annual interest on said bonds and also such part of the principal thereof as shall become due before the time for fixing the next general tax levy in which tax may be included a sum sufficient, in the judgment of the board of trustees, to take care of anticipated delinquencies; provided, however, that if the maturity of the indebtedness created by the issuance of bonds be made to begin more than one year after the date of the issuance thereof, such tax shall be levied and collected at the time and in the manner aforesaid, annually each year, in an amount sufficient to pay the interest on said indebtedness as it falls due and also to constitute a sinking fund for the redemption thereof on or before maturity. The tax herein required to be levied and collected shall be in addition to all other taxes levied for district purposes and shall be collected at the time and in the same manner as other district taxes are collected, and be used for no other purpose than the payment of said bonds and accruing interest.

Such tax shall be levied upon the land and improvements within the district including the operative land and improvements of any public utility and excluding any land and improvements belonging to any county, municipality, or political subdivision within said district, or land and improvements belonging to the State of California or the United States of America; provided, however, that nothing herein contained shall be deemed to exempt from assessment the land and improvements of any political subdivision the corporate boundaries of which are wholly outside the boundaries of said district, and all such land and improvements of any such political subdivision shall be subject to the taxes herein provided to be levied with the same force and effect as though such land and improvements were held by private individuals.

If the district has been divided into zones and the percentage of the amount to be raised for the redemption of principal and interest

of said bonds from each such zone has been determined as provided in this act, the said amount of said tax levied shall be divided according to said percentage, and the percentage to be raised from the land and improvements within each zone shall be levied upon and against the land and improvements in such zone as hereinbefore provided.

The board of trustees may elect to avail itself of the assessment made by the assessor of the County of Sacramento and may take such assessment as the basis for district taxes and have its taxes collected by the county officials of such county; provided, the board of trustees shall declare its said election by resolution and file a certified copy of the same with the auditor of Sacramento County on or before the 1st day of August, and such board of trustees shall likewise file with such resolution a certified copy of the map or plat showing the zones and the percentages of the amount to be raised from each zone. Thereafter each year until otherwise provided by the board of trustees, all assessments shall be made and taxes collected for such district by the county assessor and tax collector, respectively, of said County of Sacramento. In such case, the auditor of such county must, on or before the 2nd Monday of August of each year, transmit to the board of trustees of the district a statement in writing showing the total value of all land and improvements within the district, which value shall be ascertained from the assessment book of such county for that year as equalized and corrected by the board of supervisors of said county; and which said statement shall also show the total value of all land and improvements in each of the said zones respectively.

All land and improvements situated within said district and subject to assessment and/or taxation for district purposes, and not included on said county rolls for taxation for county purposes, shall immediately upon the effective date of this act be placed upon and thereafter carried on said rolls, and the assessed valuation of said land and improvements shall be determined and fixed by said county assessor and the amount of such assessed valuation corrected and equalized by said board of supervisors at the same time or times and in the same manner as the assessed valuation of other land and improvements upon said assessment rolls are fixed, determined, corrected and equalized by said county officials.

In case the board of trustees shall so elect to avail itself of the assessment made by the assessor of the County of Sacramento, as hereinbefore provided, it shall, on or before the first weekday in September, or if such weekday falls upon a holiday, then upon the first business day thereafter, fix the rate of tax for each zone, and designate the number of cents upon each one hundred dollars ($100) using as a basis the value of land and improvements as it is assessed by the county assessor and returned to the board of trustees of the district by the county auditor as hereinabove provided, which rate of taxation shall be sufficient to raise the amount previously fixed by the board as hereinabove prescribed. Such acts by the board of

trustees of the district shall constitute a valid assessment of the land and improvements and a valid levy of the tax so fixed. The board of trustees must immediately thereafter transmit to the county auditor a statement of the rate of taxes so fixed by said board for each zone into which the district may be divided and the county auditor shall enter such rate upon the county tax roll. Such taxes so levied shall be collected at the same time and in the same manner as county taxes and when collected the net amount ascertained as hereinafter provided shall be paid to the treasurer of the district under the general requirements and penalties provided by law for the settlement of other taxes.

Whenever any land and improvements situate in said district has been sold for taxes and has been redeemed the money paid for such redemption shall be apportioned and paid by the county treasurer to the said district in the proportion which the tax due to said district bears to the total tax for which such land and improvements was sold.

All taxes levied under the provisions of this act shall be a lien upon the land and improvements on which they are levied and, unless the board of trustees has by resolution otherwise provided, the enforcement of the collection of such taxes shall be had in the same manner and by the same means as provided by law for the enforcement of the liens for state and county taxes, all provisions of law relating to the enforcement of the latter being hereby made a part of this act.

Wherever in this act the word "tax" is used, such word shall not be deemed or construed as referring to a tax in the technical sense of that term but shall be deemed only to refer to such assessments of benefits as are provided for by Section 8 of this act.

(b) (1) The Legislature hereby finds and declares that a county may face substantial expense in maintaining a roll or system which reflects both current values of property for purposes of ad valorem benefit assessments as well as the property values for general taxation mandated by Article XIII A of the California Constitution. The Legislature further finds and declares that a fair and proper benefit assessment for flood control purposes may be levied on the alternative basis of the use to which the benefited land in the district may be put.

(2) Upon receipt of the declaration of the board of trustees of its intention to have its taxes collected by the county officials, the Board of Supervisors of Sacramento County may evaluate the costs of maintaining a system to determine benefits according to valuation of land and improvements thereon pursuant to subdivision (a) of this section, and if the board of supervisors finds that these costs would be excessive relative to the amounts to be collected, it may, in lieu of the assessment provided in subdivision (a) of this section or Section 18, elect to require that the benefit assessment as set forth in subdivision (a) of this section or Section 18 be levied in the manner set forth in this subdivision, which assessment shall be sufficient to raise the amount or amounts certified by the board of trustees as

required by the district for district operations during the coming fiscal year.

(3) The assessment authorized to be levied on each parcel under this subdivision shall be based upon the parcel's proportionate benefit expressed as a product of the degree of protection it receives as determined from the zone in which it is located, its size, and its capacity for being put to use, with respect to all other parcels in the district. A parcel's benefit product shall be deemed to equal the percentage benefit for the zone in which the parcel is located, as defined in Sections 8 and 9, multiplied by the acreage of the parcel, multiplied by the parcel's land use factor as specified in paragraph (4). Any parcel less than one-third acre in size shall be deemed to be one-third acre. For any parcel categorized as agriculture in paragraph (4), every acre over five acres shall be deemed to be one-tenth acre.

(4) The county shall assign each parcel to one of the following land use categories based upon the current land use of the parcel as shown on the records of the county assessor from among the following:

Category	Land Use Factor
(A) Waste or unusable land	0
(B) Agriculture	1
(C) Single family, residential	5
(D) commercial, industrial, and other	10

(5) Prior to April 1 of any year, landowners in the district may petition the board of supervisors or the board of trustees may request the board of supervisors to review the land use categories and land use factors set forth in paragraph (4), or the board of supervisors may elect to do so on its own motion. The petition shall be signed by at least 50 landowners within the district. The board of supervisors shall set a time and place for a hearing upon the petition or request or upon its motion, and shall give notice of the hearing in the manner set forth in Section 6066 of the Government Code. At the hearing, the board of supervisors shall hear all evidence presented regarding the land use factors and categories and shall determine whether the categories or land use factor assigned to each category should be altered, expanded, or modified in any respect. The board of supervisors may, by resolution at the conclusion of the hearing, modify the categories and factors as in its judgment is required for fair and practical special benefit assessments for maintenance of the district works. The board of supervisors may delegate to an appropriate county board or administrative body the powers and duties set forth in this paragraph.

(6) The amount assessed each parcel in the district under this subdivision shall be determined by the following formula: the benefit product of the parcel multiplied by the total amount to be collected in the district, divided by the sum of the various benefit products of

all parcels in the district.

(7) If the board of supervisors elects to require use of the benefit assessment procedure and formula provided in this subdivision, the county may recover the reasonable costs of its services in preparing and levying the assessments, and the amount collected on behalf of the district shall be in lieu of any apportionment of the county tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. The county auditor shall submit an estimate of the costs of the county services under this subdivision to the board of trustees which shall then be included as a part of the board of trustees' determination of costs under Section 17 or 18.

(8) All other provisions of this act applicable to the levy of assessments shall apply to this subdivision so far as they are or may be made applicable.

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 needed flood control maintenance may be performed as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 760

An act to add Section 434.6 to the Revenue and Taxation Code, relating to taxation, 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 434.6 is added to the Revenue and Taxation Code, to read:

434.6. (a) Notwithstanding any provision of this division which requires a refund of an overpayment of property taxes, each county in which the assessor valued timberland for the 1980–81 and 1981–82 fiscal years in accordance with the site valuations contained in Property Tax Rule 1025, as adopted by the board on December 11, 1979, may provide for the disposition of any overpayment of property taxes resulting from those valuations, in accordance with subdivision (b).

(b) The board of supervisors of an affected county may, by resolution, provide for the disposition of an overpayment of property taxes specified in subdivision (a) in either of the following ways:

(1) The county may refund the amount of the overpayment to the

assessee in the manner otherwise provided by law for the making of refunds for overpayments of property taxes.

(2) The county may credit the amount of the overpayment against subsequent property taxes of the assessee in connection with the timberland which was valued as specified in subdivision (a). The provision of a credit shall not apply whenever the assessee is no longer the owner of the timberland which was valued as specified in subdivision (a). The credit shall be applied to the assessee's property taxes for the 1982–83 fiscal year. The county auditor of each county shall prescribe the procedure by which the credit will be applied. This procedure shall be adequate to establish an audit trail and shall eliminate the necessity of making value corrections on the affected timberlands on the 1980–81 and 1981–82 county assessment rolls.

(c) Nothing in this section shall be construed to preclude the operation of any provision of law which would require the payment or crediting of interest by a county in connection with the making of any refund or applying any credit pursuant to 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:

In order that affected counties not be forced to incur large administrative costs in processing property tax refunds for certain timber property owners for the 1980–81 and 1981–82 fiscal years and in order that credits for overpayments may be applied to the first installment of property taxes for the 1982–83 fiscal year, it is necessary that this act go into immediate effect.

CHAPTER 761

An act to amend Sections 1020 and 1022 of, and to add Section 1021.5 to, the Labor 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 1020 of the Labor Code is amended to read:

1020. It is the intent of the Legislature in enacting this chapter to establish a citation system for the imposition of prompt and effective civil sanctions against violators of the laws and regulations of this state relating to the employment of workers by unlicensed contractors and the utilization of unlicensed contractors and other persons who are not valid independent contractors by licensed contractors.

SEC. 2. Section 1021.5 is added to the Labor Code, to read:

1021.5. Any person who holds a valid state contractor's license

issued pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and who willingly and knowingly enters into a contract with any person to perform services for which such a license is required as an independent contractor, and that person does not meet the burden of proof of independent contractor status pursuant to Section 2750.5 or hold a valid state contractor's license, shall be subject to a civil penalty in the amount of one hundred dollars ($100) per person so contracted with for each day of the contract. The civil penalties provided for by this section are in addition to any other penalty provided by law.

SEC. 3. Section 1022 of the Labor Code is amended to read:

1022. If upon inspection or investigation the Labor Commissioner determines that any person is employing workers in violation of Section 1021 or 1021.5, he or she may issue a citation to the person in violation. The citation may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated.

CHAPTER 762

An act to amend Section 8101.6 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, 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 8101.6 of the Revenue and Taxation Code is amended to read:

8101.6. (a) No refund of any tax shall be granted on motor vehicle fuel used in propelling passenger carrying vehicles, except six cents ($0.06) of the tax imposed upon each gallon of motor vehicle fuel used in propelling passenger carrying vehicles used for the transportation of persons for hire, compensation, or profit of the following:

(1) Any transit district, transit authority, or city owning and operating a local transit system itself or through a wholly owned nonprofit corporation, or any nonprofit corporation designated as a Consolidated Services Transportation Agency pursuant to subdivision (a) of Section 15975 of the Government Code, which provides door-to-door transportation services under contract or agreement with a transit district, transit authority, or public agency authorized to provide transportation services.

(2) Any private entity providing transportation services under

contract or agreement, except general franchise agreements, with a public agency authorized to provide public transportation services, only for fuels consumed while providing services under such contracts or agreements entered into subsequent to the effective date of this act.

(3) Any passenger stage corporation subject to the jurisdiction of the Public Utilities Commission when the motor vehicles of such passenger stage corporation are exclusively operated in urban or suburban areas or between cities in close proximity; provided, however, that the exemption is not extended to any line or lines operated by such passenger stage corporation which shall exceed 50 miles of one-way route mileage.

(4) Any common carrier of passengers operating exclusively on any line or lines within the limits of a single city between fixed termini or over a regular route, 98 percent of whose operations, as measured by total route mileage operated, are exclusively within the limits of a single city, and who by reason thereof is not a passenger stage corporation subject to the jurisdiction of the Public Utilities Commission.

(b) The exemption provided for in subdivision (a) shall not be applicable to motor vehicle fuel used by a charter-party carrier of passengers. The term "charter-party carrier of passengers" has the same meaning as that specified in Section 5360 of the Public Utilities Code and shall further include those transportation services described in subdivisions (a) and (e) of Section 5353 of the Public Utilities Code, if such transportation service is rendered as contract carriage and not as common carriage of passengers.

SEC. 2. The Legislature finds and declares that the amendments made to Section 8101.6 of the Revenue and Taxation Code by this act are declaratory of existing law.

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 763

An act to amend Section 14662.5 of the Government Code, relating to state property.

[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 14662.5 of the Government Code is amended to read:

14662.5. In any agreement entered into whereby the state obtains a grant of easement, lease, license, right-of-way, or right of entry (including without limitation, a right-of-way, or right of entry on or

over property of any railroad), the state agency or its director entering into the agreement on behalf of the state may agree to indemnify and hold harmless the grantor, lessor, or licensor and may agree to repair or pay for any damage proximately caused by reason of the uses authorized by such easement, lease, license, right-of-way, or right of entry agreement.

CHAPTER 764

An act to amend Section 65588 of the Government Code, relating to housing.

[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 65588 of the Government Code is amended to read:

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) The housing element shall be revised as appropriate, but not less than every five years, to reflect the results of this periodic review, except that the first such revision shall be accomplished by July 1, 1984.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing which has been provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles thereof pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

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. 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 765

An act to amend Section 5458 of the Welfare and Institutions Code, relating to mental 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. Section 5458 of the Welfare and Institutions Code is amended to read:

5458. The following shall be the program elements of the system. These shall be designed to provide, at every level, alternatives to institutional settings. Counties in applying for these funds shall show how each of these elements works with the current programs and in-place programs. Counties may apply for funds in the following categories:

(a) A short-term crisis residential alternative to hospitalization for individuals experiencing an acute episode or situational crisis requiring temporary removal from their home environment. The program shall be available for admissions 24 hours a day, seven days a week. The primary focus of this element shall be on reduction of the crisis, stabilization, and a diagnostic assessment of the person's existing support system, including recommendations for referrals upon discharge.

The services in the program shall include, but not be limited to,

provision for direct family work, connections to prevocational and vocational programs, development of a support system, including income and treatment referrals. This service shall be designed for persons who would otherwise be referred to an inpatient unit, either locally or in the state hospital. It shall be a 24-hour program, with an emphasis on stabilization and appropriate referral for further treatment or support services, or both.

(b) A long-term residential treatment program, with a full day treatment component as a part of the service, for persons who may require intensive support for as long as two or three years. This service shall be designed to provide a rehabilitation program for the so-called "chronic" patient who needs long-term support in order to develop independent living skills. The clients in this program will be those who would otherwise be living marginally in the community with little or no service support, and who would return many times to the hospital for treatment. It also will serve those who are referred to, and maintained in, state hospitals or nursing homes because they require long-term, intensive support. This program goes beyond maintenance to provide an active rehabilitation focus for these individuals.

The services shall include, but not be limited to, intensive diagnostic work, including learning disability assessment, full day treatment program with an active prevocational and vocational component, special education services, outreach to develop linkages with the general social service system, and counseling to aid clients in developing the skills to move toward a less structured setting.

(c) A transitional residential program designed for persons who are able to take part in programs in the general community, but who, without the support of counseling, as well as the therapeutic community, would be at risk of returning to the hospital. These programs may employ a variety of staffing patterns and are for persons who may be expected to move toward a more independent living setting within approximately three months to one year. The clients shall be expected to play a major role in the functioning of the household, and shall be encouraged to accept increasing levels of responsibility, both in the residential community, and in the community as a whole. Residents are required to be involved in daytime activities outside of the house which are relevant to their personal goals and conducive to their achieving more self-sufficiency.

The services include, but are not limited to, counseling and ongoing assessment, development of support systems in the community, a day program which encourages interaction between clients and the community-at-large, and an activity program that encourages socialization and utilization of general community resources.

(d) A semisupervised, independent, but structured living arrangement for persons who do not need the intensive support of the other system elements, but who, without some support and

structure, are at risk to return to a condition requiring hospitalization. The individual apartments or houses are shared by three to five persons. The small cooperative housing units shall function as independent households with direct linkages to staff support in case of emergencies, as well as for regular assessment and evaluation meetings. Individuals may use satellite housing as a transition to independent living, or may remain in this setting indefinitely in order to avoid the need for more intensive settings.

This element is for persons who only need minimum support in order to live in the community. These individuals may require rent subsidy, as well as the backup of another system in order to remain in this setting. The satellite units should be as normative as the general living arrangements in the communities in which they are developed.

(e) In areas applying for a system where there is no day treatment program, or where the day treatment program is housed totally in a hospital, the county shall be encouraged to develop such a program, consistent with the principles and practices outlined above, in a noninstitutional setting and employing a rehabilitation focus. Where there are already existing services, efforts should be made to assure the capability of such day treatment services with the goals of the system elements. This may require the relocation of such services or the addition of staff.

(f) The socialization centers shall be designed to serve a broad range of clients, including those in the system elements, when appropriate, as well as persons living in the community in general. This service is designed to provide regular daytime, evening, and weekend activities for persons who require long-term, structured support, but who do not receive such services in their living setting. Although the socialization center is meant to provide a maintenance support program for those individuals who only wish or require regular socialization opportunities, the programs should also provide the opportunity to develop the skills to move toward more independent functioning.

The services shall include, but not be limited to, outings, recreational activities, cultural events, linkages to community resources, as well as prevocational counseling, life skills training, and other rehabilitation efforts. This program is for persons who would lose contact with a social or treatment system, or both, if left to their isolated living situation, or their ability to participate in activities for the "general public." With this level of support, persons would be able to lead full and active lives, with the opportunity to develop the skills to move toward independent living. Also included in the element are adult education support programs which utilize community college and other adult education agencies. These services would provide opportunities to individuals throughout the community residential treatment system and in other living settings, including independent living, to develop skills necessary for independent living through the utilization of resources available to

the general population.

(g) An in-home treatment program designed as an alternative to out-of-home placement for individuals who are otherwise not appropriate for, or do not choose to participate in, other elements of the community residential treatment system. This element is designed for those individuals who would benefit most from a treatment intervention in their home environment. It is a basic premise of this element that treatment would focus on the development of family and other personal and community supports, rather than exclusively on the individual. The goal of the element is to reintegrate the individual with the family unit, when appropriate, and with the greater community without removing the person from his or her home environment.

The service may be designed as a crisis intervention for persons experiencing an acute episode or an ongoing independent living service, or both, for persons wishing to obtain or maintain housing and services in the community. Services provided shall include, but not be limited to, crisis intervention, family work, when appropriate, development of a specific treatment plan, development of an ongoing rehabilitation plan utilizing available resources in the community, and coordination with such services as case management, vocational rehabilitation, schools and other education services, and various special programs which would act as a support system for the individual.

(h) A volunteer-based companion program designed to encourage the development of personal relationships with residents of community care facilities with the goal of motivating and assisting residents to make a successful transition to independent living, or elements of the community residential treatment system.

The service shall be provided primarily by volunteers, including students as a part of a college or university curriculum, who are supervised and coordinated by trained and experienced personnel. Services provided shall include, but not be limited to, recreation, one-to-one companionship, advocacy, and assistance in developing the knowledge and use of community resources, including housing and vocational services, and follow-up for persons who make the transition to independent living.

(i) A self-help independent living program that utilizes mentally disabled persons living independently in the community to work with clients of the mental health system. Staff for this element shall consist of unpaid volunteers who are or have been clients of the mental health system. Paid staff shall be limited to coordinators of volunteer activities. The duties of the volunteers shall include, but not be limited to, training in independent living skills, housing advocacy and referral, financial benefits counseling, and peer counseling.

CHAPTER 766

An act to amend Section 19901 of the Health and Safety Code, relating to housing.

[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 19901 of the Health and Safety Code is amended to read:

19901. Notwithstanding any other provision of law, no public agency which owns and operates rental housing accommodations, shall prohibit the keeping of not more than two pets by the elderly in such rental housing accommodations.

For the purposes of this section:

(a) "Elderly" means any person over the age of 60.

(b) "Pet" means domesticated dog, cat, bird, or aquarium.

(c) "Public" means state, county, city, city and county, district, or other political subdivision of the state.

Nothing in this section shall prevent the local housing authority from requiring the removal from any housing of any pet whose conduct or condition is duly determined to constitute a threat or nuisance to the other occupants of the housing. No pet may be kept in violation of humane or health laws. Nothing in this section authorizes a local housing authority to impose any requirement which makes the keeping of a pet by an elderly person financially prohibitive.

The local housing authority shall not be liable for personal or property damages caused by any pet in the rental housing accommodation, except upon proof of prior actual knowledge on behalf of its agents or employees of a dangerous propensity of the pet or hazardous condition created by the pet.

Nothing in this section shall prevent the local housing authority from adopting reasonable regulations relating to any such pets; prevent the adoption of differing terms for the tenancy which are reasonably related to the presence of such pet; or relieve a tenant from any liability otherwise imposed by law for damages caused by such pet when proof of same exists.

The adoption of any regulations pursuant to this section, or the application of any regulation adopted pursuant to this section, may be appealed by an elderly resident or elderly applicant in accordance with grievance procedures of the local housing authority established to resolve tenant disputes. A copy of the grievance procedures shall be provided to an elderly tenant or elderly applicant who keeps a pet.

CHAPTER 767

An act to add Article 4.5 (commencing with Section 21690.5) to Chapter 4 of Part 1 of Division 9 of the Public Utilities Code, relating to publicly operated airports, 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 21690.5) is added to Chapter 4 of Part 1 of Division 9 of the Public Utilities Code, to read:

Article 4.5. Airport Facilities and Concessions

21690.5. The Legislature finds and declares as follows:

(a) The proper operation of California's publicly owned or operated airports is essential to the welfare of the state and its people.

(b) California's publicly owned or operated airports establish a vital transportation link between the state and the economic systems of the nation and the world, and enable the state to enjoy and provide the benefits of an international tourist and commercial center.

(c) The economic validity and stability of California's publicly owned or operated airports is, consequently, a matter of statewide importance.

(d) The policy of this state is to promote the development of commerce and tourism to the end of securing to the people of this state the benefits of these activities conducted in the state.

(e) Therefore, since the proper operation of the state's publicly owned or operated airports is essential to the welfare of the state and its people, the Legislature recognizes and affirms such operation as a governmental function to be discharged in furtherance of the policy of securing the benefits of commerce and tourism for the state and its people.

21690.6. The provisions of this article shall apply to any airport owned or operated by a political subdivision, including a charter city.

21690.7. The governing bodies of publicly owned or operated airports shall manage airport facilities and grant airport concessions in furtherance of the development of commerce and tourism in or affecting the state. In managing facilities and granting concessions for services to the public, such airport governing bodies shall promote the development of commerce and tourism by (a) securing a diversity of airport services; (b) avoiding wasteful duplication of such services; (c) securing to the users of airports safe, courteous, and quality service; (d) limiting or prohibiting business competition which is destructive of the ends of promoting commerce and tourism

in the state; (e) allocating limited airport resources to promote such ends; and (f) fostering California's image as a commercial and tourist center.

21690.8. The Legislature recognizes that to further the policies and fulfill the objectives stated in this article, it is often necessary that publicly owned or operated airports enter into exclusive or limited agreements with a single operator or a limited number of operators. The governing bodies of publicly owned or operated airports shall grant exclusive or limited agreements to displace business competition with regulation or monopoly service whenever the governing body determines, in consideration of the factors set forth in Section 21690.9, that such agreements are necessary to further the policies and to fulfill the objectives stated in this article. The Legislature contemplates that publicly owned or operated airports will grant exclusive or limited agreements in furtherance of the policy of this state to displace business competition by exclusive or limited agreements to fulfill these policies and objectives.

21690.9. Before entering any exclusive or limited agreement in connection with the management of any airport facility or the operation of any airport concession, the governing body of a publicly owned or operated airport shall, under authority hereby expressly delegated by the state, determine the necessity for an exclusive or limited agreement. The governing body shall consider the following factors to determine the necessity for an exclusive or limited agreement to further the policies and objectives stated in this article:

(a) Public safety.

(b) Public convenience.

(c) Quality of service.

(d) The need to conserve airport space.

(e) The need to avoid duplication of services.

(f) The impact on the environment or facilities of the airport as an essential commercial and tourist service center.

(g) The need to avoid destructive competition which may impair the quality of airport services to the public, lead to uncertainty, disruption, or instability in the rendering of such services, or detract from the state's attractiveness as a center of tourism and commerce.

In making its determination, the airport operator shall not be required to take evidence or to make findings of fact.

21690.10. Nothing in this article shall excuse any local agency from complying with applicable state or local requirements for competitive bidding or public hearings which may be required prior to the awarding or entering into of any bid, agreement or lease.

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.

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 view of the recent decision of the United States Supreme Court in Community Communications Co. v. Boulder, 70 L. Ed. 2d 810, uncertainty presently exists as to whether the practices of publicly owned or operated airports, in contracting to have vital public services rendered through limited or exclusive concession agreements, may contravene federal statutes which prohibit contracts in restraint of trade or commerce. In order that airport authorities may continue to provide such services in the most efficient and least costly manner, it is necessary that this act take effect immediately.

CHAPTER 768

An act to amend Section 14793 of, and to add Sections 14780.1, 14792.1, 14792.2, 14792.3, and 14792.4 to, the Government Code, relating to purchases by state agencies.

[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 14780.1 is added to the Government Code, to read:

14780.1. As used in this chapter:

(a) "Centralized purchasing" means the purchase for state agencies of materials, supplies, and equipment by the Office of Procurement.

(b) "Department" means the Department of General Services.

(c) "Director" means the Director of General Services.

(d) "Office" means the Office of Procurement in the Department of General Services.

(e) "Price schedule" means an agreement between the Office of Procurement and a vendor under which the vendor agrees to accept orders from the office or a state agency for a commodity or commodities at set prices for a specified period of time but which does not obligate the office or state agencies to purchase the commodity or commodities from the vendor.

(f) "Regional commodities contract" means a commodities contract of the same type as a statewide commodities contract but applicable only to purchases in a particular area or region of the state.

(g) "Statewide commodities contract" means a contract awarded by the Office of Procurement to a vendor or vendors for the purchase of a commodity or commodities for a period of time, at a price, and in an amount set forth in the contract.

SEC. 2. Section 14792.1 is added to the Government Code, to read:

14792.1. On July 1 of each year, the department shall establish the minimum dollar level below which authority to purchase materials, supplies, and equipment shall be delegated to state agencies that meet the requirements of Section 14792.4. The level shall be established at eight hundred dollars ($800) on January 1, 1983, and shall be adjusted each July 1 thereafter to reflect, at a minimum, the percentage change from April 1 of the prior year to April 1 of the current year in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

SEC. 3. Section 14792.2 is added to the Government Code, to read:

14792.2. The department shall establish a program for delegating authority to purchase materials, supplies, and equipment to state agencies which meet the requirements of Section 14792.4. Each delegation shall be subject to annual review by the department. Delegated authority may be withdrawn at any time the department finds that the state agency to which authority has been delegated is not in compliance with the requirements of Section 14792.4.

SEC. 4. Section 14792.3 is added to the Government Code, to read:

14792.3. Any state agency which receives delegated authority to purchase materials, supplies, and equipment shall be authorized, at a minimum, to make the following types of purchases:

(a) Purchases not exceeding the dollar value established pursuant to Section 14792.1.

(b) Purchases in any amount of commodities available under an unexpired statewide or regional commodities contract. Purchases of commodities for which a valid statewide or regional commodities contract is in effect may not be made, without the approval of the office, from a vendor other than the vendor with whom the state has a valid contract.

(c) Purchases in any amount of articles, materials, and supplies which state agencies are required, by Section 2873 of the Penal Code, to purchase from the correctional industries.

(d) Purchases not exceeding five thousand dollars ($5,000) of materials, supplies, and equipment designated in price schedules which the office has established with vendors. Purchases not exceeding five thousand dollars ($5,000) of materials, supplies, and equipment designated in price schedules may be made from a vendor other than the vendor specified on a price schedule if another vendor offers the same or an equivalent commodity at a price lower than the price established in the price schedule. The agency shall notify the office prior to making such a purchase. The purchase may be made 48 hours after receipt of the notice by the office unless the office advises the agency that the commodity to be purchased is not the same or equivalent to a commodity specified on a price schedule.

(e) Purchases not exceeding five thousand dollars ($5,000) of

materials, supplies, and equipment which are available from the state warehouses but which the state agency can purchase from another vendor at a price lower than the price charged by the department. The agency shall notify the office prior to making such a purchase. The purchase may be made 48 hours after receipt of the notice by the office unless the office advises the agency that the commodity to be purchased is not the same or equivalent to the commodity available from the state warehouses.

SEC. 5. Section 14792.4 is added to the Government Code, to read:

14792.4. (a) The department shall delegate purchasing authority, as specified in Section 14792.3, to any state agency which does all of the following:

(1) Designates an agency officer as responsible and directly accountable for the agency's purchasing program.

(2) Establishes written policies and procedures, including procedures for ensuring and documenting competitive purchasing, complying with purchasing standards established pursuant to Section 14792.5, inspecting purchased products for compliance with specifications, reporting vendor failures to deliver products as specified in purchase orders, ensuring that agency purchasing personnel are free from conflict of interest, and complying with other provisions of law as the department may require.

(3) Establishes procedures for complying with the provisions of the Small Business Procurement and Contract Act. The procedures shall include procedures for meeting the goals for the extent of participation of small businesses in state procurement as established by the department pursuant to subdivision (a) of Section 14838.

(4) Establishes policies for training personnel in purchasing law and procedures, controlling and reviewing purchasing practices, auditing purchasing activities, and delegating purchasing authority within the agency.

(5) Reports such data to the Office of Procurement as the department may require.

(b) The department shall conduct an audit of each state agency to which purchasing authority has been delegated at least once in each three-year period. The authority to purchase materials, supplies, and equipment may be withdrawn by the department at any time that the department finds that the state agency to which authority has been delegated is not in compliance with the requirements of this section.

SEC. 6. Section 14793 of the Government Code is amended to read:

14793. Except as provided in Sections 14792.3 and 14792.4, no state agency may purchase equipment, supplies, or materials in the open market, unless permission has been given by the department, upon a showing of the necessity therefor.

CHAPTER 769

An act to amend Section 10237.25 of the Business and Professions Code, relating to real property securities.

[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 10237.25 of the Business and Professions Code is amended to read:

10237.25. (a) Except as provided in subdivision (b), sale to pension, retirement or similar trust funds, to corporations, to institutional lending agencies, to real estate broker licensees, to general building contractor licensees, or to attorneys shall not be deemed a sale to the public for the purpose of this article.

(b) The sale to a self-employed individual retirement plan or individual retirement account shall be deemed not to be a sale to the public for the purpose of this article only if the plan or account is for the exclusive benefit of an individual who is a real estate broker licensee, general building contractor licensee, or attorney.

CHAPTER 770

An act to add Section 8513 to the Business and Professions Code, relating to pest control operators.

[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 8513 is added to the Business and Professions Code, to read:

8513. (a) 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 pest control operator thereunder. Each operator licensed under this chapter, prior to entering into a contract with an owner for work for which an operator's license is required, shall give a copy of this "Notice to Owner" to the owner, his or her agent, or the payer.

(b) No operator who is required to be licensed under this chapter shall require or request a waiver of lien rights from any subcontractor, employee, or supplier.

(c) Each operator licensed under this chapter who acts as a

subcontractor for another operator licensed under this chapter shall, with 20 days of commencement of any work for which an operator's license is required, give the preliminary 20-day notice (private work) in accordance with the provisions of Section 3097 of the Civil Code, to the owner, his or her agent, or the payer.

(d) Each operator licensed under this chapter who acts as a prime contractor for work for which an operator's license is required shall, prior to accepting payment for the work, furnish to the owner, his or her agent, or the payer a full and unconditional release from any claim of mechanics' lien by any subcontractor entitled to enforce a mechanics' lien pursuant to Section 3114 of the Civil Code.

(e) Each operator licensed under this chapter who subcontracts to another operator licensed under this chapter work for which an operator's license is required shall furnish to the subcontractor the name of the owner, his or her agent, or the payer.

(f) The provisions of this section shall be applicable only to those persons operating pursuant to a branch 1 or branch 3 license, as defined in Section 8560.

(g) A violation of the provisions of this section is a ground for disciplinary action.

CHAPTER 771

An act to add Section 5408.5 to the Business and Professions Code, relating to outdoor advertising.

[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 5408.5 is added to the Business and Professions Code, to read:

5408.5. In addition to the advertising displays permitted by Sections 5405 and 5408, advertising displays located on bus passenger shelters or benches and conforming to the following standards may be placed on or adjacent to a highway:

(a) The advertising display may not be within 660 feet of and visible from any federal-aid interstate or primary highway.

(b) The advertising display shall meet traffic safety standards of the public entity having operational authority over the highway. These standards may include provisions requiring a finding and certification by an appropriate official that the proposed advertising display does not constitute a hazard to traffic.

(c) Bus passenger shelters or benches with advertising displays may only be placed at approved passenger loading areas.

(d) Bus passenger shelters or benches with advertising displays may only be placed in accordance with a permit or agreement with

the public entity having operational authority over the highway adjacent to where, or upon which, the advertising display is to be placed.

(e) Any advertising display on bus passenger shelters or benches may not extend beyond the exterior limits of the shelter or bench.

(f) There may not be more than two advertising displays on any bus passenger shelter.

(g) Advertising displays placed on bus passenger shelters or benches pursuant to a permit or agreement with a local public entity shall not be subject to the state permit requirements specified in Article 6 (commencing with Section 5350).

CHAPTER 772

An act to amend Section 52373 of, and to add Section 52375 to, the Education Code, relating to schools.

[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 52373 of the Education Code is amended to read:

52373. (a) The governing board of any high school district maintaining an agriculture course may transport pupils, instructors, or supervisors of classes to and from any classes or places where the work of the classes is being done, whether within or without the district, in the same manner and subject to the same limitations as in transporting pupils to and from school.

(b) No pupil shall be required to pay any fee or charge for transportation associated with activities of vocational student organizations which are a part of a vocational class or course of instruction offered for credit, when those activities are integral to assisting the pupil to achieve the career objectives of the class or course.

SEC. 2. Section 52375 is added to the Education Code, to read:

52375. No pupil shall be required to pay any fee or charge for enrollment or participation in activities of vocational student organizations which are a part of a vocational class or course of instruction offered for credit, when those activities are integral to assisting the pupil to achieve the career objectives of the class or course. This section shall apply to activities which occur during or outside of the regular schoolday.

This section does not constitute a change in, but is declaratory of, existing law. Furthermore, this section shall not be construed to authorize a fee or charge for any pupil to enroll or participate in any activity other than vocational student organizations.

CHAPTER 773

An act to add Section 224o to the Civil Code, relating to adoption.

[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 224o is added to the Civil Code, to read:

224o. On or before the time a relinquishment or a consent to adoption is signed, the parent signing the relinquishment or consent shall be advised verbally and in writing by the department or the licensed adoption agency, that he or she may, at any time in the future, request from the agency or the department, all known information about the status of the child's adoption, except for personal, identifying information about the adoptive family. The parent shall be advised that this information includes, but is not limited to, all of the following: (1) whether the child has been placed for adoption, (2) the approximate date that an adoption was completed, and (3) if the adoption was not completed or was vacated, for any reason, whether adoptive placement of the child is again being considered.

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 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 774

An act to add Chapter 26 (commencing with Section 17800) to Part 10 of the Education Code, relating to schools.

[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 26 (commencing with Section 17800) is added to Part 10 of the Education Code, to read:

CHAPTER 26. SCHOOL DISTRICT REVENUE BONDS

Article 1. General Provisions

17800. The Legislature hereby finds and declares that the State

School Building Lease-Purchase Fund, pursuant to Section 17708, and the proceeds from the sale or lease of surplus school property are the two sources available to school districts to finance the construction of school facilities to relieve overcrowding. However, these sources are still insufficient to meet the construction needs statewide of school districts.

Article 2. Revenue Bonds

17810. The governing board of a school district may issue for sale revenue bonds to finance the construction of joint occupancy facilities as prescribed in Article 8 (commencing with Section 39440) of Chapter 3 of Part 23, which facilities are necessary to relieve overcrowded schools. Proceeds from the rental and lease of the facilities shall be used by the governing board to repay the revenue bonds.

As used in this chapter:

(a) "To finance the construction of joint occupancy facilities" means to offset either the cost of constructing the joint occupancy facilities or the cost of financing the construction of joint occupancy facilities, or both.

(b) "Joint occupancy facilities" means any building constructed pursuant to this chapter which is occupied jointly by a school district and a private entity specified in Section 17811 or one or more buildings which are constructed pursuant to this chapter on the same property used by the district and the private entity, but are not occupied jointly.

17811. The governing board may contract with any person, firm, partnership, joint venture, or other private entity for the purpose of issuing revenue bonds pursuant to Section 17810 and for the purpose of renting or leasing the facilities constructed pursuant to this chapter.

17812. No revenue bonds may be issued for sale by the governing board unless the facilities are to be constructed on district-owned property.

CHAPTER 775

An act to add Section 987.567 to the Military and Veterans Code, relating to veterans' farm and home purchase.

[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 987.567 is added to the Military and Veterans Code, to read:

987.567. (a) Notwithstanding Section 987.85 or the preferences established by Section 987.56, the department shall set aside the sum of ten million dollars ($10,000,000) from the proceeds of the first sale of general obligation bonds after January 1, 1983, for the purpose of making home improvement loans pursuant to Section 988.2 to veteran purchasers who have a service-connected disability rating of at least 10 percent established by the Veterans' Administration of the United States.

(b) In implementing the provisions of this section, the department shall comply with the requirements of any federal law or regulation on mortgage subsidy bonds to the extent necessary to maintain the tax exempt status of the bonds so sold and used for purposes of this section.

CHAPTER 776

An act to amend Section 12814.5 of, and to add Section 12814.6 to, the Vehicle Code, relating to driver's licenses.

[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 12814.5 of the Vehicle Code is amended to read:

12814.5. (a) At the discretion of the director, drivers' licenses expiring on or after January 1, 1983, may, subject to subdivision (b), be renewed by mail for a four-year period for licensees, not holding a probationary license, whose records, for the four years immediately preceding the determination of the eligibility for the renewal, show no convictions of violating traffic laws, no involvement in a traffic accident, and no notification of a violation of subdivision (a) of Section 40509.

No renewal by mail shall be granted to any person who is 70 years of age or older.

(b) The director may establish a demonstration program to evaluate the traffic safety and other effects of renewing driver's licenses by mail. If a demonstration program is established, the director may, under that program, renew by mail driver's licenses expiring on or after January 1, 1983, for licensees whose records, for the two years immediately preceding the determination of the eligibility for the renewal, show no convictions of violating traffic laws, no involvement in a traffic accident, and no notification of a violation of subdivision (a) of Section 40509, and additionally whose records, for the four years immediately preceding that

determination, do not show a violation which has a violation point count of two determined in accordance with Section 12810 or a fatal accident notation. The department shall terminate the demonstration program when its evaluation is completed or may terminate the program at any time the department determines that the program has an adverse impact on traffic safety.

(c) The department shall charge a fee of ten dollars ($10) for each license renewal granted pursuant to subdivision (a) or (b).

(d) The department shall monitor and conduct a continuing study of the effects of the license renewal by mail under subdivisions (a) and (b) and submit an interim report to the Legislature not later than January 1, 1986, and a final report to the Legislature not later than March 1, 1989, on its findings. The study shall include, but not be limited to, safety issues. The final report shall specifically include information regarding the impact on traffic safety of persons who receive a second extension under subdivision (b), which information shall cover a period not less than 24 months of experience following the second consecutive extension.

(e) The department shall notify each licensee granted a renewal by mail pursuant to this section of major changes to the Vehicle Code affecting traffic laws occurring during the prior four-year period.

(f) The department shall not renew a driver's license by mail if the license has been previously renewed by mail two consecutive times for four-year periods.

SEC. 2. Section 12814.6 is added to the Vehicle Code, to read:

12814.6. (a) Notwithstanding any other provision of this code, the director may establish a demonstration program to evaluate the traffic safety effects of issuing a provisional driver's license to persons under 18 years of age. The demonstration program may include any or all, but shall not be limited to, the following components:

(1) The issuance of a distinctive driver's license to persons under 18 years of age on which appear the words "Provisional until age 18."

(2) Notwithstanding subdivision (c) of Section 12509, a general requirement that any person who has in his or her immediate possession a valid permit issued after June 30, 1983, pursuant to subdivision (a) of Section 12509 and who is under 18 years of age may operate a motor vehicle, other than a motorcycle or a motorized cycle, only if that person is accompanied by, and under the immediate supervision of, a driver who is 25 years of age or older, who then holds a driver's license issued under this code, and whose driving privilege is not on probation. This paragraph does not apply if that licensed driver is the parent, spouse, or guardian of the permit holder or is a licensed or certified driving instructor.

(3) A requirement for supervised driving practice, which is prior to the issuance of a provisional driver's license and is in addition to any other driving training instruction required by law, and certification by a parent, spouse, guardian, or licensed or certified driving instructor that the person under 18 years of age has completed that driving practice. A minor without a parent, spouse,

or guardian, or emancipated minors, may have a licensed driver 25 years of age or older or a licensed or certified driving instructor complete the certification. This requirement does not apply to motorcycle practice.

(4) A suspension of the driving privilege of any driver under 18 years of age when the record shows notification of one or more violations of subdivision (a) of Section 40509. The suspension shall continue until the suspended person's driver record does not show any notification of a violation of subdivision (a) of Section 40509.

(5) A 30-day restriction imposed on a driver under 18 years of age when that driver's record shows a violation point count of two or more points in 12 months determined in accordance with Section 12810. The restriction shall require the licensee to be accompanied by a licensed parent, spouse, guardian, or other licensed driver 25 years of age or older, except when operating a class 4 vehicle with no passengers aboard.

(6) A six-month suspension of the driving privilege and one-year term of probation to be imposed whenever the record of a driver under 18 years of age shows a violation point count of three or more points in 12 months determined in accordance with Section 12810.

(7) A requirement that any term of restriction or suspension imposed on a person under 18 years of age remain in effect until the end of the term even though the person becomes 18 years of age before the term ends.

(b) If the provisional driver's license demonstration program is established pursuant to subdivision (a), the department shall conduct a study on the traffic safety effects of the program, and, unless the department sooner determines that the program has no substantial beneficial impact on traffic safety, in which case the department may, upon that determination, recommend termination of the program and discontinue the issuing of provisional licenses pursuant to this section, the department shall prepare and submit an interim report on the study to the Legislature on or before July 1, 1986, and a final report on or before December 31, 1988.

(c) If the final report to the Legislature does not establish that the demonstration program has had a substantial beneficial impact on traffic safety, the department shall recommend termination of the program and may discontinue the issuing of provisional licenses pursuant to this section. If the final report results are not adverse and not yet conclusive as of the date the final report is required to be submitted, the department shall continue the demonstration program until its effect on traffic safety can be conclusively determined. If the final report indicates that the demonstration program has had a substantial beneficial impact on traffic safety, the department shall continue issuance of a provisional driver's license under the program with periodic evaluations.

(d) This section shall become operative July 1, 1983.

CHAPTER 777

An act to amend Section 798.56 of the Civil Code, relating to mobilehome parks.

[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 798.56 of the Civil Code is amended to read:

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the tenant to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the tenant receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the tenant, upon the park premises, which constitutes a substantial annoyance to other tenants.

(c) Failure of the tenant to comply with a reasonable rule or regulation of the park as set forth in the rental agreement or any amendment thereto.

No act or omission of the tenant shall constitute such a failure to comply unless and until the management has given the tenant written notice of the alleged rule or regulation violation and the tenant has failed to adhere to the rule or regulation within seven days. However, if a tenant has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the tenant has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.

(d) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided, that the tenant shall be given a three-day written notice to pay the amount due or to vacate the tenancy. The three-day written notice shall be given to the tenant in the manner prescribed by Section 1162 of the Code of Civil Procedure. Such notice may be given at the same time as the 60 days' notice required for termination of the tenancy. Payment by the tenant prior to the expiration of the three-day notice period, or payment by the legal owner, as defined in Section 18007 of the Health and Safety Code, or registered owner, as defined in Section 18010.2 of the Health and Safety Code, if other than the tenant, on behalf of the tenant prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner or registered owner provided in subdivision (b) of Section 798.55, shall cure a default under this subdivision with respect to such payment. The tenant shall remain liable for all

payments due up until the time the tenancy is vacated. Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner or registered owner, if other than the tenant, as provided by this subdivision, may not be exercised more than twice during the term of the tenancy.

(e) Condemnation of the park.

(f) Change of use of the park or any portion thereof, provided:

(1) The management gives the tenants at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the tenants six months' or more written notice of termination of tenancy.

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

(3) The management gives each proposed tenant written notice thereof prior to the inception of his tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) The notice requirements for termination of tenancy set forth in Sections 798.56 and 798.57 shall be followed if the proposed change actually occurs.

(5) A notice of a proposed change of use given prior to January 1, 1980, which conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall be governed by the law in effect at the time the notice was given.

SEC. 2. Section 798.56 of the Civil Code is amended to read:

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the homeowner to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the homeowner, upon the park premises, which constitutes a substantial annoyance to other tenants.

(c) Failure of the homeowner to comply with a reasonable rule or regulation of the park as set forth in the rental agreement or any amendment thereto.

No act or omission of the homeowner shall constitute such a failure to comply unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner has failed to adhere to the rule or regulation within seven days. However, if a homeowner has been given a

written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the homeowner has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.

(d) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided, that the homeowner shall be given a three-day written notice to pay the amount due or to vacate the tenancy. The three-day written notice shall be given to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure. Such notice may be given at the same time as the 60 days' notice required for termination of the tenancy. Payment by the tenant prior to the expiration of the three-day notice period, or payment by the legal owner, as defined in Section 18007 of the Health and Safety Code, or registered owner, as defined in Section 18010.2 of the Health and Safety Code, if other than the homeowner, on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner or registered owner provided in subdivision (b) of Section 798.55, shall cure a default under this subdivision with respect to such payment. The homeowner shall remain liable for all payments due up until the time the tenancy is vacated. Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner or registered owner, if other than the homeowner, as provided by this subdivision, may not be exercised more than twice during the term of the tenancy.

(e) Condemnation of the park.

(f) Change of use of the park or any portion thereof, provided:

(1) The management gives the homeowners at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the homeowners six months' or more written notice of termination of tenancy.

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

(3) The management gives each proposed homeowner written notice thereof prior to the inception of his tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) The notice requirements for termination of tenancy set forth in Sections 798.56 and 798.57 shall be followed if the proposed change actually occurs.

(5) A notice of a proposed change of use given prior to January 1, 1980, which conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall be governed by the law in effect at the time the notice was given.

SEC. 3. 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 798.56 of the Civil Code, and this bill is chaptered after Assembly Bill No. 2429, that the amendments to Section 798.56 of the Civil Code proposed by both bills be given effect and incorporated in Section 798.56 of the Civil Code in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 2429 are both chaptered and become effective January 1, 1983, both amend Section 798.56 of the Civil Code, and this bill is chaptered after Assembly Bill No. 2429, in which case Section 1 of this act shall not become operative.

CHAPTER 778

An act to amend Sections 1179 and 1772 of the Welfare and Institutions Code, relating to the Youth Authority.

[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 1179 of the Welfare and Institutions Code is amended to read:

1179. (a) All persons honorably discharged from control of the Youthful Offender Parole Board shall thereafter be released from all penalties or disabilities resulting from the offenses for which they were committed, including, but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. However, such a person shall not be eligible for appointment as a peace officer employed by any public agency if his or her appointment would otherwise be prohibited by Section 1029 of the Government Code.

(b) Notwithstanding the provisions of subdivision (a), such a person may be appointed and employed as a peace officer by the Department of the Youth Authority if (1) at least five years have passed since his or her honorable discharge, and the person has had no misdemeanor or felony convictions except for traffic misdemeanors since he or she was honorably discharged by the

Youthful Offender Parole Board, or (2) the person was employed as a peace officer by the Department of the Youth Authority on or before January 1, 1983. No person who is under the jurisdiction of the Department of the Youth Authority shall be admitted to an examination for a peace officer position with the department unless and until the person has been honorably discharged from the jurisdiction of the department by the Youthful Offender Parole Board.

(c) Upon the final discharge or dismissal of any such person, the Youth Authority shall immediately certify the discharge or dismissal in writing, and shall transmit the certificate to the court by which the person was committed. The court shall thereupon dismiss the accusation and the action pending against that person.

SEC. 2. Section 1772 of the Welfare and Institutions Code is amended to read:

1772. (a) Every person honorably discharged from control by the Youthful Offender Parole Board who has not, during the period of control by the authority been placed by the authority in a state prison shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, and every person discharged may petition the court which committed him or her, and the court may upon such petition set aside the verdict of guilty and dismiss the accusation or information against the petitioner who shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, including, but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. However, such a person shall not be eligible for appointment as a peace officer employed by any public agency if his or her appointment would otherwise be prohibited by Section 1029 of the Government Code.

(b) Notwithstanding the provisions of subdivision (a), such person may be appointed and employed as a peace officer by the Department of the Youth Authority if (1) at least five years have passed since his or her honorable discharge, and the person has had no misdemeanor or felony convictions except for traffic misdemeanors since he or she was honorably discharged by the Youthful Offender Parole Board, or (2) the person was employed as a peace officer by the Department of the Youth Authority on or before January 1, 1983. No person who is under the jurisdiction of the Department of the Youth Authority shall be admitted to an examination for a peace officer position with the department unless and until the person has been honorably discharged from the jurisdiction of the department by the Youthful Offender Parole Board.

(c) Every person discharged from control by the Youthful Offender Parole Board shall be informed of this privilege in writing at the time of discharge.

"Honorably discharged" as used in this section means and includes

every person whose discharge is based upon a good record on parole.

CHAPTER 779

An act to add Article 4 (commencing with Section 12040) to Chapter 1 of Part 2 of Division 3 of Title 2 of the Government Code, relating to wellness and physical fitness.

[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 (commencing with Section 12040) is added to Chapter 1 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

Article 4. Wellness and Physical Fitness

12040. This article shall be known as the California State Government Wellness and Physical Fitness Act.

12041. The Legislature finds and declares that wellness and physical fitness should be the goal of every American and, therefore, creates the Council on Wellness and Physical Fitness with the following responsibilities:

(a) Develop and coordinate state and local activities involving the wellness and physical fitness of all Californians, including workshops, clinics, conferences and other similar activities.

(b) Assist schools in developing health and physical fitness programs which benefit students, including those with special needs.

(c) Encourage local governments and communities to develop local wellness and physical fitness programs.

(d) Enlist the support of individuals, civic groups, amateur and professional associations and other organizations to promote and improve wellness and physical fitness programs.

(e) Assist business, industry, labor organizations, and state agencies in establishing sound wellness programs to improve employee health and reduce the costs resulting from physical inactivity.

(f) Stimulate wellness and physical fitness research.

(g) Give recognition to outstanding developments and achievements in, and contributions to, wellness and physical fitness.

(h) Collect and disseminate wellness and physical fitness information, and initiate an advertising campaign promoting physical fitness and wellness.

12042. There is in the office of the Governor a Council on Wellness and Physical Fitness, hereinafter referred to as "council" which shall advocate and encourage wellness and physical fitness.

(a) The council shall consist of 20 members, 10 to be appointed by the Governor, five by the Speaker of the Assembly, and five by the Senate Rules Committee for terms of four years and until the appointment and qualification of their successors. The members shall be broadly representative of the public and shall include members of the health, business, and education communities. In addition, the members shall be knowledgeable in the areas of health promotion, nutrition, physical fitness, and environmental sensitivity.

(b) The council shall submit an annual report to the Legislature of its activities and shall include in this report its accomplishments. The first report of the office shall be submitted to the Legislature no later than January 15, 1984, and shall contain specific objectives developed by the council and means of accomplishing those objectives.

CHAPTER 780

An act to add Article 1.5 (commencing with Section 22080) to Chapter 1 of Part 5 of Division 11 of the Water Code, relating to irrigation districts.

[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 1.5 (commencing with Section 22080) is added to Chapter 1 of Part 5 of Division 11 of the Water Code, to read:

Article 1.5. Watermaster Service

22080. As used in this article:

(a) "Conduit" includes ditches, pipelines, and other means of diversion.

(b) "District" means any irrigation district which includes land included within a watermaster service area for which a watermaster has previously been appointed by the Department of Water Resources, but which elects to provide watermaster service pursuant to the provisions of this article.

22080.5. Any duty or authority vested in a watermaster appointed by a district may be exercised by the watermaster directly or through the agency of a deputy watermaster if there is one.

22081. A district, as defined in subdivision (b) of Section 22080, may appoint one or more watermasters to regulate the use of water within the district.

22081.5. The owner of every conduit subject to regulation by an irrigation district shall construct and maintain to the satisfaction of

the district a substantial and serviceable diversion dam or works in the channel of the stream from which the water is diverted.

22082. The owner of a conduit shall construct and maintain to the satisfaction of the district a substantial and serviceable headgate in the conduit through which the water is diverted at or near the diversion dam or works.

22082.5. The headgate shall be of such construction that it can be locked and kept closed by the watermaster.

22083. The owner of a conduit shall construct and maintain such water flow measuring devices at such points along the conduit as may be required and approved by the district for the purpose of assisting the watermaster in determining the amounts of water which are being diverted and applied to beneficial use.

22083.5. If the owner of any conduit refuses or neglects to construct and maintain the diversion dam or works, the headgate, or the measuring devices provided for in this article after 30 days' notice by the district so to do, the watermaster may close the conduit, and it shall not be opened or any water diverted from the source of supply until the requirements of the district as to the diversion dam or works, the headgate, or the measuring devices have been complied with.

22084. The owner of every reservoir which is subject to regulation by a watermaster and which is located across or upon the bed of a natural stream or requires the use of a natural stream channel shall construct and maintain such measuring devices below the reservoir in the stream and such measuring devices above the reservoir on each stream or source of supply discharging into the reservoir as may be required and approved by the district for the purpose of assisting the district or the watermaster in determining the amounts of water to which the owner is entitled and the amounts of water which the owner is diverting, storing, and applying to beneficial use.

22084.5. If the owner of any reservoir neglects or refuses to construct and maintain the measuring devices provided for in this article after 30 days' notice by the district, the watermaster may open the outlet of the reservoir and the outlet shall not be closed, except by order of the district, until the requirements of the district as to the measuring devices are complied with.

22085. The district may make such reasonable regulations to secure distribution of water in accordance with determined rights as may be needed.

22085.5. The watermaster shall divide the water of the streams or other sources of supply among the several conduits and reservoirs taking water therefrom and so adjust or close the headgates of conduits and regulate the controlling works of reservoirs as may be necessary to insure a distribution of the water among the water users entitled to its use, according to the rights of the users.

22086. Whenever in pursuance of his duties the watermaster regulates a headgate to a conduit or the controlling works of a

reservoir, he may attach to the headgate or controlling works a written notice properly dated and signed setting forth the fact that the headgate or controlling works have been properly regulated and are wholly under his control.

22086.5. The notice is legal notice to all persons interested in the diversion and distribution of the water of the conduit or reservoir.

22087. Any person who is injured by the action of any watermaster may apply to the superior court of the county in which the injury takes place for an injunction.

22087.5. Such injunction shall be issued only in case it is shown at the hearing that the watermaster has failed to distribute the water according to the rights as determined by decrees of court, agreements, permits, or licenses.

22088. Every person who willfully and without authority closes, changes, or interferes with any headgate, waterbox, or measuring device while it is under the control of the watermaster, or who willfully takes or uses water which has been denied him by the watermaster under the provisions of this part is guilty of a misdemeanor.

22088.5. The possession or use of water when it has been so denied by the watermaster is prima facie evidence of the guilt of the person using it.

22089. Every person who violates any of the provisions of this article is guilty of a misdemeanor and is punishable by a fine of not less than twenty-five dollars ($25), nor more than two hundred fifty dollars ($250), or by imprisonment in the county jail for not less than 10 days nor more than six months, or by both such fine and imprisonment.

22089.5. A watermaster has the power to arrest any person violating any of the provisions of this article and to give him into the custody of the sheriff or other competent police officer within the county, and immediately thereafter make a complaint before a magistrate against the person so arrested.

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 781

An act to add and repeal Section 1663 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 1663 is added to the Vehicle Code, to read:

1663. (a) Notwithstanding any other provisions of this code, the director may, after determining the feasibility and effect on the state, enter into an agreement with the Internal Revenue Service for the purpose of initiating and carrying out a pilot project for state collection of the federal highway users tax on commercial vehicles at the time of registration or renewal of registration of commercial vehicles. The pilot project may include, but not be limited to, refusal of registration, or renewal or transfer of registration, by the department for nonpayment of the required federal highway users tax as provided under the agreement.

Any agreement shall provide for federal funds necessary to cover any costs incurred in the implementation of the agreement and to cover the ongoing costs for administration and fee collection activities of the department and any other state agency involved in providing service for the pilot project.

(b) If the director determines under subdivision (a) that entering into the agreement would not compromise the interests of the state, the department shall submit a report to the Legislature on December 1, 1984, and each December 1 thereafter, on the status of this program until the result of the pilot project has been completed. The final report on the pilot project shall contain recommendations for the continuance of the program, changes, or its repeal.

(c) 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 on or before January 1, 1988, deletes or extends that date.

CHAPTER 782

An act to amend Sections 22127, 23902, and 23903 of, and to add Section 23701.5 to, the Education Code, relating to the State Teachers' Retirement Law.

[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 22127 of the Education Code is amended to read:

22127. "Final compensation" means the highest average annual compensation earnable by a member during any period of three consecutive years during his or her membership in the system or time during which he or she was not a member but for which the member has received credit under the system, except such time as was so credited for service performed outside this state prior to July 1, 1944. The last three consecutive years of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

For the purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for such breaks.

The determination of final compensation of a member who is also a member of the Public Employees' Retirement System, the Legislators' Retirement System, the University of California Retirement System, or the San Francisco City and County Employees' Retirement System shall take into consideration the compensation earnable while a member of such other system, provided all of the following exist:

(a) The member was in state service or in the employment of a local school district or of a county superintendent of schools.

(b) Service under the other system was not performed concurrently with service under this system.

(c) Retirement under this system is concurrent with the member's retirement under the other system.

The compensation earnable for the first position in which California service is credited will be used when additional compensation earnable is required to accumulate three consecutive years for the purpose of determining final compensation under the provisions of Section 23804.

The board may specify a different final compensation with respect to allowances based on part-time service performed prior to July 1, 1956, for which credit was given under this system under board rules in effect prior to such date.

The board may specify a different final compensation with respect to disability and family allowances payable on and after January 1, 1978. The earnable salaries for periods of part-time service shall be adjusted by the ratio that part-time service has to full-time service.

The amendment of this section made at the 1981–82 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 2. Section 23701.5 is added to the Education Code, to read:

23701.5. If the estate is the beneficiary, and if the estate need not be probated except for the payments due from the system, all of the

amount due shall be paid directly without probate to the survivors of the deceased as separate property would be distributed in accordance with Sections 221 to 230, inclusive, of the Probate Code. Payment to a person or persons, upon receipt of an affidavit upon a form supplied by the system, that there are no others entitled to receive the payment and that the estate of the deceased will not be probated, shall be in full and complete discharge and acquittance of the board and system on account of the death.

SEC. 3. Section 23902 of the Education Code is amended to read:

23902. A member may apply for a disability allowance if the member has five or more years of credited service and all of the following requirements are met:

(a) At least four years were credited for actual service performed in a position requiring membership in the system except that credit received because of workers' compensation payments shall be counted towards the four-year requirement.

(b) The last five years of credited service have been served in this state.

(c) At least one year was credited for service performed subsequent to the date on which the member was reinstated to membership under Section 23913.

(d) At least one year was credited for service performed subsequent to the most recent refund of accumulated retirement contributions.

(e) The member has not attained age 60 years, or has unused sick leave with sufficient days to have the member receive salary on account of sick leave to age 60 years.

Nothing in this section shall affect the right of a member to a disability allowance if the reason that the member has less than four years of actual service is due to an on-the-job injury or disease in a position requiring membership in the system.

SEC. 4. Section 23903 of the Education Code is amended to read:

23903. The board may authorize payment of a disability allowance to any member who is qualified upon application by the member, the guardian or conservator, or the employer, if the application is made during any one of the following periods:

(a) While the member is employed but not performing services in a position requiring membership in the system.

(b) While the member is physically or mentally incapacitated for performance of his or her duty and the incapacity has been continuous from the last day for which compensation was paid to the member.

(c) While the member is on a leave of absence without compensation, granted for reason other than mental or physical incapacity for performance of his or her duty, and within four months after the last day of employment for which compensation was paid to the member, or within 12 months while on an official district leave to study at an approved college or university.

(d) Within four months after the termination of the member's

employment in a position requiring membership in the system, if the application was not made under subdivision (b) and was not made more than four months after the last day for which compensation was paid to the member.

(e) A member with children who becomes disabled prior to age 60, and whose sick leave will extend beyond age 60, may be awarded a disability allowance with an effective date after age 60, if application is filed prior to attaining age 60.

(f) The member is not applying for a disability allowance because of a physical or mental condition which existed at the time the most recent membership in this system commenced and which remains substantially unchanged at the time of application.

On receipt of an application for disability allowance, the system may order a medical examination of a member to determine whether the member is incapacitated for further service. If the applicant for disability allowance refuses to submit to the required medical examination, the application for disability allowance shall be canceled. The applicant shall either remain in this state, or return to this state at the applicant's own expense, to undergo the initial evaluations or examinations or the application shall be disallowed, unless this requirement is waived by the board.

CHAPTER 783

An act to amend Sections 5106, 5108, and 9265 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 5106 of the Vehicle Code is amended to read:

5106. (a) In addition to the regular registration fee, the applicant shall be charged a fee of thirty-five dollars ($35).

(b) In addition to the regular renewal fee, for the vehicle to which the plates are assigned, the applicant for a renewal of the plates shall be charged an additional fee of ten dollars ($10).

(c) Notwithstanding subdivision (b), when payment of renewal fees is not required as specified in Section 4000, the holder of any environmental license plate may retain the plate upon payment of an annual fee of ten dollars ($10). The fee shall be due at the expiration of the registration year of the vehicle to which the environmental license plate was last assigned.

(d) Notwithstanding Section 9265, the applicant for a duplicate environmental license plate shall be charged a fee of thirty dollars ($30).

SEC. 2. Section 5108 of the Vehicle Code is amended to read:

5108. Whenever any person who has been issued environmental license plates applies to the department for transfer of the plates to another passenger vehicle, commercial vehicle, or trailer, a transfer fee of twenty dollars ($20) shall be charged in addition to all other appropriate fees.

SEC. 3. Section 9265 of the Vehicle Code is amended to read:

9265. Upon application for duplicates as permitted under this code, the following fees shall be paid:

(a) For a duplicate certificate of ownership or registration card or equipment identification receipts	$7
(b) For any duplicate license plates, except environmental license plates, or substitute plates, or equipment identification plate for the same vehicle	7

CHAPTER 784

An act to amend Section 18711 of, to repeal and add Section 18653 of, and to repeal Sections 18654, 18654.5, 18673.5, 18753, and 18802.5 of, the Business and Professions Code, relating to boxing and wrestling.

[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 18653 of the Business and Professions Code is repealed.

SEC. 2. Section 18653 is added to the Business and Professions Code, to read:

18653. (a) This chapter applies to all amateur boxing, full contact karate, and wrestling contests where (1) any contestant receives any financial remuneration beyond out-of-pocket expenses or (2) where an admission fee, including donations, is charged or where the contest is used to attract customers for any remunerative purposes.

(b) The commission may authorize a recognized boxing association, upon approval of its bylaws by the commission, to administer its rules and may therefor waive direct commission application of laws and rules, subject to the commission's affirmative finding that the standards and enforcement of similar rules by that association meet or exceed the safety and fairness standards of the commission. The commission shall review the performance of any such association annually.

(c) Every boxing contest subject to this section shall be preceded

by a physical examination specified by the commission of every contestant, a physician shall be in attendance at the contest, and there shall be a disability insurance program provided by the amateur club or the recognized nonprofit association in effect covering all contestants. The commission shall review compliance with these requirements and may establish rules to assure minimum standards.

(d) Any amateur club or recognized boxing association, which is a nonprofit organization, as defined by subdivision (e), and which conducts, holds, or gives amateur boxing contests, sparring or wrestling matches, or wrestling exhibitions, where an admission fee is charged, shall, in addition to furnishing a written financial report of receipts within 90 days of the event, pay to the commission a fifty-dollar ($50) administrative regulation fee within 72 hours after the scheduled event was held.

(e) As used in this section, "nonprofit organization" means any of the following:

(1) An organization exempt from taxation under the Bank and Corporation Tax Law.

(2) Incorporated fraternal organizations.

(3) Any university, college or school.

(4) Any nonprofit organization not otherwise within any of the foregoing categories.

SEC. 3. Section 18654 of the Business and Professions Code is repealed.

SEC. 4. Section 18654.5 of the Business and Professions Code is repealed.

SEC. 5. Section 18673.5 of the Business and Professions Code is repealed.

SEC. 6. Section 18711 of the Business and Professions Code is amended to read:

18711. Except as provided in subdivision (d) of Section 18653 and Section 18713, every club licensed under this chapter shall, within 72 hours after the determination of every contest, match, or exhibition for which an admission fee is charged and received, furnish to the commission a written report duly verified by one of its officers, showing the number of tickets issued or sold for such contest, match, or exhibition, the amount of the gross receipts or value thereof, and the gross price charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of such contest, match, or exhibition, and without any deductions, except for expenses incurred for the announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross base taxable when such expense is shown as an indirect overhead or loss and is approved by the commission. Such club shall also, within the same time, pay to the commission a tax, exclusive of any federal taxes paid thereon, of one cent ($0.01) for each twenty cents ($0.20), or fraction thereof, except for professional boxing clubs which shall pay one cent ($0.01)

for each fifty cents ($0.50) or fraction thereof, of the amount paid for admission to such contest, match, or exhibition, and of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall such tax be less than fifty dollars ($50). The tax on admissions applies to the amount actually paid for admission, and not to the regular established price. No tax is due in the case of a person admitted free of charge.

SEC. 7. Section 18753 of the Business and Professions Code is repealed.

SEC. 8. Section 18802.5 of the Business and Professions Code is repealed.

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 785

An act to add Section 49401.5 to, and to add Article 4 (commencing with Section 49340) to Chapter 8 of Part 27 of, the Education Code, relating to schools.

[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 (commencing with Section 49340) is added to Chapter 8 of Part 27 of the Education Code, to read:

Article 4. Hazardous Materials Education

49340. This article shall be known and may be cited as the California Hazardous Materials Education Act of 1982.

49341. The Legislature hereby finds and declares as follows:

(a) Because school science laboratories pose a potentially serious threat to the health and safety of school pupils and school personnel due to the use and storage of hazardous materials in these laboratories, educational efforts are needed to increase the awareness of persons dealing with these materials in these settings so that possible losses of life, injuries, loss of property, and social disruption which could result from the improper and unsafe use of hazardous materials will be minimized.

(b) Effective safety in school laboratories requires informed judgment, decision making, and operating procedures by those responsible for laboratory and related instruction. It is desirable that each high school and junior high, middle, or elementary school offering laboratory work have a trained member of the professional staff who is designated as the building laboratory consultant and who is responsible for the review, updating, and carrying out of the school's adopted procedures for laboratory safety.

(c) Efforts by state and local agencies to implement training programs designed to provide qualified individuals with the necessary information, organizational skills, and materials to assist schools and teachers in the development of their laboratory safety policies and procedures are nonexistent or inadequate, and it is necessary that this situation be remedied. The state should assume leadership through the policy and guidance of the State Department of Education in the development, support, and implementation of a statewide training program.

(d) The Legislature requests that the Department of Education consider making this program a part of the department's energy and environmental education program which is conducted pursuant to Chapter 4 (commencing with Section 8700) of Part 6.

SEC. 2. Section 49401.5 is added to the Education Code, to read:

49401.5. (a) It is the intent of the Legislature in enacting this section to express its concern for the health and safety of school pupils and school personnel at schools where hazardous materials are stored on the school premises, and to encourage school districts to take steps to ensure hazardous materials are properly used and stored.

(b) The governing board of any school district may request consultation services from the California Occupational Safety and Health Consultation Service to ensure hazardous materials are being used and stored safely in school laboratories.

SEC. 3. This act shall not be construed to impose any change in the duty of care required of school districts.

CHAPTER 786

An act to amend Sections 1501, 1513, 1518, and 1521 of the Code of Civil Procedure, relating to unclaimed property.

[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 1501 of the Code of Civil Procedure is amended to read:

1501. As used in this chapter, unless the context otherwise

requires:

(a) "Apparent owner" means the person who appears from the records of the holder to be entitled to property held by the holder.

(b) "Banking organization" means any national or state bank, trust company, banking company, land bank, savings bank, safe deposit company, private banker, or any similar organization.

(c) "Business association" means any private corporation, joint stock company, business trust, partnership, or any association for business purposes of two or more individuals, whether or not for profit, including, but not by way of limitation, a banking organization, financial organization, life insurance corporation, and utility.

(d) "Financial organization" means any federal or state savings and loan association, building and loan association, credit union, investment company, or any similar organization.

(e) "Government or governmental subdivision or agency" does not include the United States government or any officer, department, or agency thereof.

(f) "Holder" means any person in possession of property subject to this chapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this chapter.

(g) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(h) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, or creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this chapter, or his or her legal representative.

(i) "Person" means any individual, business association, government or governmental subdivision or agency, two or more persons having a joint or common interest, or any other legal or commercial entity, whether such person is acting in his or her own right or in a representative or fiduciary capacity.

(j) "Employee benefit plan distribution" means any money, life insurance, endowment or annuity policy or proceeds thereof, securities or other intangible property, and any tangible property, distributable to a participant, former participant, or the beneficiary or estate or heirs of a participant or former participant or beneficiary, from a trust or custodial fund established under a plan to provide health and welfare, pension, vacation, severance, retirement benefit, death benefit, stock purchase, profit sharing, employee savings, supplemental unemployment insurance benefits or similar benefits.

SEC. 2. Section 1513 of the Code of Civil Procedure is amended to read:

1513. Subject to Sections 1510 and 1511, the following property held or owing by a business association escheats to this state:

(a) Except as provided in subdivision (f), any demand, savings, or

matured time deposit, or account subject to a negotiable order of withdrawal, made with a banking organization, together with any interest or dividends thereon, excluding, from demand deposits and accounts subject to a negotiable order of withdrawal only, any reasonable service charges which may lawfully be withheld and which do not (where made in this state) exceed those set forth in schedules filed by the banking organization from time to time with the State Controller, when the owner, for more than seven years, has not either:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest.

(2) Corresponded in writing with the banking organization concerning the deposit.

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking organization.

No banking organization may discontinue any interest or dividends on any savings deposit because of the inactivity contemplated by this section.

(b) Except as provided in subdivision (f), any savings, or matured time deposit, or matured investment certificate, or account subject to a negotiable order of withdrawal, or other interest in a financial organization or any deposit made therewith, and any interest or dividends thereon, excluding, from accounts subject to a negotiable order of withdrawal only, any reasonable service charges which may lawfully be withheld and which do not (where made in this state) exceed those set forth in schedules filed by the financial organization from time to time with the Controller, when the owner, for more than seven years, has not either:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends.

(2) Corresponded in writing with the financial organization concerning the funds or deposit.

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum or other record on file with the financial organization.

No financial organization may discontinue any interest or dividends on any funds paid toward purchase of shares or other interest, or on any deposit, because of the inactivity contemplated by this section.

(c) Any sum payable on a travelers check issued by a business association that has been outstanding for more than 15 years from the date of its issuance, when the owner, for more than 15 years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with such association.

(d) Any sum payable on any other written instrument on which

a banking or financial organization is directly liable, including, by way of illustration but not of limitation, any draft, certified check, or money order, that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, when the owner, for more than seven years, has not corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization.

(e) Any sum payable on a money order issued by a business association (other than a banking or financial organization) that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, when the owner, for more than seven years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the business association.

(f) Any funds held by a business association in an individual retirement account or under a retirement plan for self-employed individuals or similar account or plan established pursuant to the internal revenue laws of the United States or of this state, when the owner, for more than seven years after the funds become payable or distributable, has not either:

(1) Increased or decreased the principal.

(2) Accepted payment of principal or income.

(3) Corresponded in writing concerning the property or otherwise indicated an interest.

Such funds are not payable or distributable within the meaning of this subdivision unless, under the terms of the account or plan, distribution of all or a part of the funds would then be mandatory.

(g) For purposes of this section "service charges" means service charges imposed because of the inactivity contemplated by this section.

SEC. 3. Section 1518 of the Code of Civil Procedure is amended to read:

1518. (a) All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, and the income or increment on such tangible or intangible property, held in a fiduciary capacity for the benefit of another person escheats to this state if after it becomes payable or distributable, the owner has not, within a period of seven years, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

(b) Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established pursuant to the internal revenue laws of the United States or of this state are not payable or distributable within the

meaning of subdivision (a) unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

(c) For the purpose of this section, when a person holds property as an agent for a business association, he is deemed to hold such property in a fiduciary capacity for the business association alone, unless the agreement between him and the business association clearly provides the contrary. For the purposes of this chapter, if a person holds property in a fiduciary capacity for a business association alone, he is the holder of the property only insofar as the interest of the business association in such property is concerned and the association is deemed to be the holder of the property insofar as the interest of any other person in the property is concerned.

SEC. 4. Section 1521 of the Code of Civil Procedure is amended to read:

1521. (a) Except as provided in subdivision (b), and subject to Section 1510, all employee benefit plan distributions and any income or other increment thereon escheats to the state if the owner has not, within seven years after it becomes payable or distributable, accepted such distribution, corresponded in writing concerning such distribution, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary of the trust or custodial fund or administrator of the plan under which such trust or fund is established. As used in this section, "fiduciary" means any person exercising any power, authority, or responsibility of management or disposition with respect to any money or other property of a retirement system or plan, and "administrator" means the person specifically so designated by the plan, trust agreement, contract, or other instrument under which the retirement system or plan is operated, or if none is designated, the employer.

(b) An employee benefit plan distribution and any income or other increment thereon shall not escheat to this state if, at the time such distribution shall become payable to a participant in an employee benefit plan, such plan contains a provision for forfeiture or expressly authorizes the administrator to declare a forfeiture of a distribution to a beneficiary thereof who cannot be found after a period of time specified in such plan, and the trust or fund established under the plan has not terminated prior to the date on which such distribution would become forfeitable in accordance with such provision.

CHAPTER 787

An act to amend Sections 35221, 38912, 38914, 38924, 38925, 38943, 38945, 38952, 38956, and 38972 of, to add Sections 38943.5, 38944.5, and 38953 to, to add Article 9 (commencing with Section 38991) to Chapter 6 of Part 3 of Division 15 of, to repeal Sections 35222, 35223, 35224, 38913, 38916, 38921. 38922, 38923, 38953, 38958, and 38984 of,

and to repeal and add Section 38905 to, the Food and Agricultural Code, relating to dairy products, 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 35221 of the Food and Agricultural Code is amended to read:

35221. Every person that is engaged in the business of dealing in, receiving, manufacturing, freezing, or processing ice cream, ice milk, sherbet, or any similar frozen product, or that is engaged in the business of manufacturing, freezing, or processing imitation ice cream, imitation ice milk, or any similar frozen product, or that is engaged in the business of processing any other dairy product for which a license is required, shall pay the following fees:

(a) The fee for a license for all frozen milk products and all imitation frozen milk products is one hundred dollars ($100) for the calendar year for which the license is issued. The fee for the renewal of this license is one hundred dollars ($100), plus three dollars ($3) for each additional 10,000 gallons or fraction of 10,000 gallons over and above 20,000 gallons which were manufactured during the preceding year, ending the 31st day of December.

(b) For a semifrozen (soft-serve) milk products plant license issued to persons making application under Section 33704, one hundred dollars ($100) for the calendar year for which the semifrozen (soft-serve) milk products plant license is issued. The fee for the renewal of this license is one hundred dollars ($100).

(c) The fee for a license for any other dairy product for which a license is required is one hundred dollars ($100) for the calendar year for which the license is issued. The fee for the renewal of any such license is one hundred dollars ($100), plus one dollar ($1) for each 100,000 pounds, or part of 100,000 pounds over and above the first 100,000 pounds, of milk fat which was purchased or received during the preceding year, ending the 31st day of December.

(d) Every person, except a hospital or sanitarium, that is engaged in the business of manufacturing any diabetic or dietetic frozen milk product or mix, shall pay a license fee of one hundred dollars ($100) for the calendar year for which a diabetic or dietetic frozen milk products license is issued. The fee for the renewal of this license is one hundred dollars ($100).

(e) The license fees which are required by this section shall be prorated on a quarterly basis for any licensee that commences operations after the first quarter in any calendar year, regardless of whether or not the milk products plant was licensed during the preceding calendar year.

SEC. 2. Section 35222 of the Food and Agricultural Code is

repealed.

SEC. 3. Section 35223 of the Food and Agricultural Code is repealed.

SEC. 4. Section 35224 of the Food and Agricultural Code is repealed.

SEC. 4.1. Section 38905 of the Food and Agricultural Code is repealed.

SEC. 4.2. Section 38905 is added to the Food and Agricultural Code, to read:

38905. It is unlawful for a restaurant or any other place where food is served to the public for consumption on the premises to misrepresent products resembling milk products as milk products.

SEC. 5. Section 38912 of the Food and Agricultural Code is amended to read:

38912. "Products resembling milk products" means any food product for human consumption, except those referred to in Section 38903, which has the appearance, taste, smell, texture or color of a milk product and which, taken as a whole, bears resemblance to a milk product, could be mistaken for a milk product, or could be used as a substitute for a milk product.

SEC. 6. Section 38913 of the Food and Agricultural Code is repealed.

SEC. 7. Section 38914 of the Food and Agricultural Code is amended to read:

38914. "Imitation milk product" means a product resembling a milk product which contains oils, fats, or other ingredients, other than milk or milk products, in combination with milk or milk products. An imitation milk product may be referred to as a "filled product," or by such other name or names as may be established from time to time by the director by regulation.

SEC. 8. Section 38916 of the Food and Agricultural Code is repealed.

SEC. 9. Section 38921 of the Food and Agricultural Code is repealed.

SEC. 10. Section 38922 of the Food and Agricultural Code is repealed.

SEC. 11. Section 38923 of the Food and Agricultural Code is repealed.

SEC. 12. Section 38924 of the Food and Agricultural Code is amended to read:

38924. The director shall adopt regulations providing for the healthfulness and standard of purity of products resembling milk products. The regulations shall be those reasonably necessary to ensure that the products are safe for human consumption under the circumstances under which they are likely to be offered for sale and consumed. The standards of purity, including bacterial standards, shall not be less than those of the milk products imitated or substituted.

SEC. 13. Section 38925 of the Food and Agricultural Code is

amended to read:

38925. When the use of market milk or any derivative or component of market milk is required in any milk product, any fluid milk, fluid skim milk, fluid cream, milk fat or milk solids used in an imitation milk product imitating the milk product shall be market milk.

SEC. 14. Section 38943 of the Food and Agricultural Code is amended to read:

38943. The application shall be accompanied by a fee of twenty-five dollars ($25). The information required by Section 38942 shall be kept current and amended whenever any change is made.

SEC. 15. Section 38943.5 is added to the Food and Agricultural Code, to read:

38943.5. Each registration which has been approved expires on December 31st of the second year after it was approved and may be renewed for two years by payment of a renewal fee of ten dollars ($10). The renewal shall be made on forms which are supplied by the director.

SEC. 16. Section 38944.5 is added to the Food and Agricultural Code, to read:

38944.5. If renewal of any registration is not made within 60 days after expiration of the registration, the registration becomes null and void.

SEC. 17. Section 38945 of the Food and Agricultural Code is amended to read:

38945. In addition to any other penalty, the department may revoke or suspend the registration of any product resembling milk products for any violation of this chapter or the regulations adopted pursuant to this chapter.

SEC. 18. Section 38952 of the Food and Agricultural Code is amended to read:

38952. Each container which contains a product resembling a milk product, shall be labeled with the name and address of the manufacturer or distributor, and in the event the address is not the address of the manufacturer or final packaging plant, the label shall include the national uniform federal information processing standards state code number to be immediately followed by a hyphen and the plant number assigned by the appropriate state regulatory agency. The list of ingredients of any product resembling a milk product shall be immediately preceded by the product name, such as "Imitation _____," "Nondairy Product," "Filled Product," or any other applicable term the director has established for the products by regulation. In addition, the director may, by regulation, require any other information to be included on the label which the director determines to be in the public interest.

SEC. 19. Section 38953 of the Food and Agricultural Code is repealed.

SEC. 20. Section 38953 is added to the Food and Agricultural Code, to read:

38953. An imitation milk product, the composition and physical characteristics of which closely resemble those of a milk product or a specified variety of a milk product may be labeled "imitation," followed by the name of the milk product imitated; for example, "imitation milk," "imitation coffee cream," "imitation cheddar cheese."

An imitation milk product, the composition and physical characteristics of which do not closely resemble those of a milk product or a defined variety of a milk product shall be labeled as "imitation" or "filled" or by any other term approved by the director, followed by a term which generally describes that category of milk product; for example, "imitation milk product," "imitation cream product," "imitation cheese product."

SEC. 21. Section 38956 of the Food and Agricultural Code is amended to read:

38956. Nondairy product containers and labels shall not contain any combination of words, symbols, marks, designs, or representations commonly used or associated with the sale, advertising, or distribution of milk products. The labels shall not contain statements regarding milk products except those permitted by Section 38954 and any necessary factual statement regarding any ingredient milk products.

SEC. 22. Section 38958 of the Food and Agricultural Code is repealed.

SEC. 23. Section 38972 of the Food and Agricultural Code is amended to read:

38972. The director may adopt regulations to enforce the provisions of this article. In adopting the regulations, the director shall consider and follow, insofar as practical, the provisions of Sections 38952, 38954, 38955, and 38956, as well as any other relevant considerations. In addition the director may distinguish between different products or types of products on the basis of the nature of the product, its labeling, the manner in which it is customarily presented or is likely to be presented to the consumer, and any other relevant factors, if he or she determines the differentiation is warranted and in the public interest.

SEC. 24. Section 38984 of the Food and Agricultural Code is repealed.

SEC. 25. Article 9 (commencing with Section 38991) is added to Chapter 6 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 9. Civil Remedies and Penalties

38991. The director may bring an action to enjoin the violation, or the threatened violation, of any provision of this chapter or any regulation adopted under this chapter in the superior court in the county in which the violation occurs or is about to occur. There may be enjoined in one proceeding any number of defendants alleged to

be violating the same provisions or regulations, although their properties, interests, residences, or places of business may be in several counties and the violations separate and distinct. Any proceeding which is brought pursuant to this section shall be governed in all other respects by the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

38992. Any person that violates any provision of this chapter or any regulation adopted under this chapter, is liable civilly in the amount of five hundred dollars ($500) for each and every violation. The penalty is to be recovered by the director in any court of competent jurisdiction. Any sum which is recovered under this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 26. 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 788

An act to amend Section 4590 of, and to repeal Section 14402.5 of, the Government Code, and to amend Section 10263 of the Public Contract Code, relating to public contracts, 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 4590 of the Government Code is amended to read:

4590. 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 shall be deposited with the public agency, or with a state or federally chartered bank as the escrow agent, who shall then pay such moneys to the contractor. Upon satisfactory completion of the contract, the securities shall be returned to the contractor.

Securities eligible for investment under this section shall include those listed in Section 16430 or bank or savings and loan certificates

of deposit.

The contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Failure to include these provisions in bid and contract documents shall void any provisions for performance retentions in a public agency contract.

For purposes of this section, the term "public agency" shall include, but shall not be limited to, chartered cities.

The Legislature hereby declares that the provisions of this section are of statewide concern and are necessary to encourage full participation by contractors in public contract procedures.

This chapter 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 January 1, 1987, deletes or extends such date.

SEC. 2. Section 14402.5 of the Government Code is repealed.

SEC. 3. 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 State Treasurer or a state or federal chartered bank as the escrow agent, who shall then pay such moneys to the contractor. Upon satisfactory completion of the contract, the securities shall be returned to the contractor.

Securities eligible for investment under this section shall include those listed in Section 16430 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, 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; and

(c) The termination of the escrow upon completion of the contract.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, and safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The initial act governing the substitution of securities for moneys withheld by a public agency to ensure performance under a contract is presently operative. This bill is necessary to clarify existing law.

CHAPTER 789

An act to amend Sections 26301 and 34500 of, and to add Section 34511 to, the Vehicle Code, relating to motor 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 26301 of the Vehicle Code is amended to read:

26301. Any motor vehicle first registered in this state after January 1, 1940, shall be equipped with power brakes if its gross weight exceeds 14,000 pounds, except that any such vehicle having a gross weight of less than 18,000 pounds may, in lieu of power brakes, be equipped with two-stage hydraulic actuators of a type designed to increase braking effect of its brakes.

SEC. 2. 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 and semitrailers designed or used for the transportation of more than 10 persons, and the towing motor vehicle.

(e) 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.

(f) Any combination of a motortruck and any vehicle or vehicles set forth in subdivision (e) that exceeds 40 feet in length when coupled together.

(g) Any truck, or any combination of a truck and any other vehicle, transporting hazardous materials.

(h) Manufactured homes which, when moved upon the highway, are required to be moved under a permit as specified in Section 35780 or 35790.

(i) Any other motortruck not specified in subdivisions (a) through (h), 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. 3. Section 34511 is added to the Vehicle Code, to read:

34511. Any violation of any provision of this division or regulation adopted pursuant thereto may be enjoined in a civil action brought by the Attorney General in the name of the people of the State of California, upon request of the department, except that it shall not be necessary to show lack of adequate remedy at law or to show

irreparable damage or loss.

The department may not submit a request for civil action and the Attorney General may not bring action pursuant to this section unless the person charged with a violation of this division or regulation adopted pursuant thereto fails to take corrective action after being notified of the violation by the department, in writing, on at least two occasions over a 60-day period. Prior to the submission of the department's request for civil action, the person charged shall receive, at his or her request, a departmental hearing on the matter and the department's request for civil action shall be forwarded by the department to, and approved by, the Commissioner of the California Highway Patrol.

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 790

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 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 Tennant Community Services District, Siskiyou County, 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 one hundred sixty thousand dollars ($160,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Kings Canyon Unified 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. 3. 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 Fresno County Waterworks District No. 18 (Friant) 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. 4. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Grass Valley 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. 5. A grant not to exceed the amount of three hundred fifty thousand dollars ($350,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Clear Creek Community Services District, in Lassen County, 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. 6. 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 Crescenta Valley County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 7. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Livingston 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. 8. 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 Tahoe City Public Utility 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. 9. 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 Oakley County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 10. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Brentwood 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. 11. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Lincoln 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. 12. 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 Brooktrails Community Services

District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 13. 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 Washington County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 14. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Dos Palos 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. 15. 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 Forestville Public Utility District, Improvement District No. 1, 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. 16. 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 Forestville Public Utility District, Improvement District No. 2, 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. 17. 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 Hilmar County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 18. A grant not to exceed the amount of three hundred thousand dollars ($300,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Live Oak 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. 19. A grant not to exceed the amount of two hundred nine thousand dollars ($209,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Madera County Maintenance District No. 36 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. 20. A grant not to exceed the amount of two hundred ninety-five thousand dollars ($295,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Madera County Maintenance District No. 37 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. 21. A grant not to exceed the amount of two hundred thirteen thousand dollars ($213,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Midway Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 22. A grant not to exceed the amount of two hundred thirteen thousand dollars ($213,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the South Dos Palos County Maintenance 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. 23. 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 Sierra County Service Area No. 2 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. 24. A grant not to exceed the amount of one hundred twenty thousand dollars ($120,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Knights Ferry Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 25. 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 Occidental Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 26. 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 Sierra County Water Works District No. 1 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. 27. 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 Happy Camp Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 28. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Compton 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. 29. The Legislature hereby finds and declares that in order to meet the minimum safe drinking water standards there are critical needs within the entities identified in Sections 1 to 28, inclusive, to immediately undertake certain improvements necessary to enable the residents of those communities to have a dependable and potable water supply.

SEC. 30. The Legislature further finds and declares that the water systems of the entities identified in Sections 1 to 28, inclusive, have critical deficiencies in the areas of treatment, storage, and distribution which pose a serious threat to the public health and welfare of all consumers within those communities and that each entity is only barely meeting the demand for water within the community.

SEC. 31. 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. 32. Subject to the provisions of Chapter 10.5 (commencing with Section 13850) and Chapter 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. 33. 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. 34. This act is an urgency statute necessary for the immediate preservation of 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 entities identified in the provisions of this act to resolve the critical water supply problem of those communities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 791

An act to amend Sections 11703, 11705, 11721, and 11806 of, and to add Section 386 to, the Vehicle Code, relating to vehicle manufacturers, transporters, dealers, and salesmen.

[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 386 is added to the Vehicle Code, to read:

386. A "managerial employee" is a person who exercises control over a business licensed under this code, whether compensated by salary or commission, including, but not limited to, any person who is employed as a general manager, business manager, assistant general manager, finance and insurance manager, advertising manager, or sales manager.

SEC. 2. Section 11703 of the Vehicle Code is amended to read:

11703. The department may refuse to issue a license to a manufacturer, manufacturer branch, distributor, distributor branch, transporter, or dealer, when it determines that:

(a) The applicant was previously the holder, or a managerial

employee of the holder, of a license issued under this chapter, which license was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of suspension have not been fulfilled.

(b) The applicant was previously a representative active in the management, direction, and control of a business whose license issued under the authority of this chapter was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled.

(c) If the applicant is a business, one or more of the representatives active in the management, direction, and control was previously the holder or a representative active in the management, direction, and control of a business whose license issued under the authority of this chapter was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled, or that by reason of the facts and circumstances touching the organization, control, and management of the business, the policy of that business will be directed, controlled, or managed by individuals who, by reason of their conviction of violations of the provisions of this code, would be ineligible for a license and that by licensing the business the purposes of this code would likely be defeated.

(d) The applicant, or one of the representatives if the applicant is a business, has ever been convicted of a felony or a crime involving moral turpitude. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(e) The information contained in the application is incorrect.

(f) Upon investigation, the business history required by Section 11704 contains incomplete or incorrect information, or reflects substantial business irregularities.

(g) The decision of the department to cancel, suspend, or revoke a license has been entered, and this applicant was the representative of the business regulated under such licensee.

As used in this section, "business" means a proprietorship, partnership, corporation, or any other form of commercial enterprise, and "representative" means a proprietor, a limited or general partner, a managerial employee, a stockholder, a director, or an officer active in the management, direction, and control of the business.

SEC. 3. Section 11705 of the Vehicle Code is amended to read:

11705. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto, or has committed any of the following acts:

(1) Filed an application for the license thereafter issued using a false or fictitious name not registered with the proper authorities, or knowingly made any false statement or knowingly concealed any

material fact, in the application for such license.

(2) Has made, or knowingly or negligently permitted, any illegal use of the special plates issued to such licensee.

(3) Has used a false or fictitious name, knowingly made any false statement, or knowingly concealed any material fact, in any application for the registration of a vehicle, or otherwise committed a fraud in such application.

(4) Failed to deliver to a transferee lawfully entitled thereto a properly endorsed certificate of ownership.

(5) Has knowingly purchased, sold, or otherwise acquired or disposed of a stolen motor vehicle.

(6) Failed to provide and maintain a clear physical division between the type of business licensed pursuant to this chapter and any other type of business conducted at the established place of business.

(7) Has willfully violated any of the terms or provisions of Sections 3064 and 3065 or rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(8) Has violated one or more of the terms and provisions of Division 3 (commencing with Section 4000) or a rule or regulation adopted pursuant thereto, or Section 1651, or subdivision (a) of Section 38200.

(9) Has violated one or more of the terms and conditions of Division 4 (commencing with Section 10500) or the rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(10) Has violated one or more of the provisions of Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 or rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(11) Has violated any of the terms or provisions of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(12) Has violated any of the terms or provisions of Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code or the rules and regulations adopted pursuant thereto under the authority of Section 1651.

(13) Has submitted a check, draft, or money order to the department for any obligation or fee due the state and it is thereafter dishonored or refused payment upon presentation.

(14) Has caused any person to suffer any loss or damage by reason of any fraud or deceit practiced on him or fraudulent representations made to such person in the course of the licensed activity.

(15) Has violated any of the terms and conditions of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(16) Has violated any of the terms or provisions of Chapter 6 (commencing with Section 11950) of Division 5.

(17) Has failed to meet the terms and conditions of an agreement effected under the provisions of Section 11707.

For the purposes of this subdivision, "fraud" includes any act or omission which is included within the definition of either "actual fraud" or "constructive fraud" as defined in Sections 1572 and 1573 of the Civil Code, and the term "deceit" has the same meaning as defined in Section 1710 of the Civil Code. In addition, "fraud" and "deceit" include, but are not limited to, the following: a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made honestly and in good faith; an intentional failure to disclose a material fact; any act falling within the provisions of Section 484 of the Penal Code.

(b) Any of the causes specified in Section 11703 as a cause for refusal to issue a license to a transporter, manufacturer, manufacturer branch, distributor, distributor branch, or dealer applicant shall be cause to suspend or revoke a license issued to a transporter, manufacturer, manufacturer branch, distributor, distributor branch, or dealer.

(c) Except as provided in Section 11707, every hearing as provided for in this section shall be pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 11721 of the Vehicle Code is amended to read:

11721. The special plates and licenses provided for in this article shall be automatically canceled upon:

(a) The abandonment of the established place of business of the dealer or the change thereof without notice to the department as provided in Section 11712.

(b) The failure of the licensee to maintain an adequate bond or to procure and file another bond as provided in Section 11710 prior to the effective date of the termination by the surety of any existing bond.

(c) The voluntary or involuntary surrender for any cause by the licensee of the special plates and licenses; provided, that such surrender, or the cessation of business by the licensee, or the suspension of the corporate charter of the licensee by the State of California, shall not prevent the filing of an accusation for revocation or suspension of the surrendered license as provided in Section 11705, and the department's decision that the license should be suspended or revoked; and provided further, that that determination may be considered in granting or refusing to grant any subsequent license authorized by this division to that licensee or to a representative, as defined in Section 11703, of that prior licensee.

(d) Notification that the person designated as licensee has changed, except that the special plates issued to the original licensee may be transferred and the newly designated licensee as transferee thereof shall succeed to the privileges evidenced by those plates until the expiration thereof.

(e) Suspension or cancellation of the corporate charter of the licensee by the State of California.

SEC. 5. Section 11806 of the Vehicle Code is amended to read:

11806. The department, after notice and hearing, may refuse to issue, or may suspend or revoke, a vehicle salesman's license when it determines that:

(a) The applicant or licensee has outstanding an unsatisfied final court judgment rendered in connection with an activity licensed under the authority of this division.

(b) The applicant or licensee has failed to pay over funds or property received in the course of employment to a dealer entitled thereto.

(c) The applicant or licensee has failed to surrender possession of or failed to return any vehicle to a dealer lawfully entitled thereto upon termination of employment.

(d) A cause for refusal, suspension, or revocation exists under the provisions of Sections 11302 to 11909, inclusive.

(e) The applicant or licensee has acted as a dealer by purchasing and selling vehicles while employed by a licensed dealer without reporting the same to the dealer or utilizing the report of sale documents issued to the dealer.

(f) The applicant or licensee has acted as a vehicle salesman or engaged in such activity for, or on behalf of, more than a single person whose business does not have identical ownership and structure. Such activity shall be for a licensed dealer. Nothing contained in this section shall be deemed to restrict the number of dealerships of which a person may be an owner, officer or director, nor to preclude a vehicle salesman from working at more than one location of such single dealer, if the business of such dealer has identical ownership and structure.

(g) The applicant or licensee has acted as a vehicle salesman without having first complied with Section 11812.

(h) The applicant or licensee was a managerial employee of a dealer during the time a person under the direction or control of the managerial employee committed wrongful acts which resulted in the suspension or revocation of the dealer's license.

CHAPTER 792

An act to add Article 6 (commencing with Section 8200) to Chapter 4 of Division 3 of the Vehicle Code, relating to vehicle registration.

[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 6 (commencing with Section 8200) is added to Chapter 4 of Division 3 of the Vehicle Code, to read:

Article 6. Permanent Fleet Registration of Proportionately Registered Commercial Trailers

8200. In order to establish the practical application and assess the fiscal implications of permanent fleet registration of proportionately registered commercial trailers, the department shall implement a permanent proportionately registered commercial trailer fleet registration pilot program commencing with the 1984 registration year through December 31, 1986.

The department shall submit a report on the progress of the pilot program to the Legislature on or before June 30, 1985. The report shall include, but not be limited to, an analysis of the costs and benefits of this permanent fleet registration program and shall include recommendations for maximizing the efficiency and effectiveness of the permanent fleet registration program.

8201. 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 commercial trailers registered and base plated in this state under Article 5 (commencing with Section 8150) may, upon payment of appropriate fees, apply to the department for permanent decals and California apportioned cab cards.

The director shall have the authority to limit the number of participants in the pilot study based upon the department's determination of the number of fleets required to make the appropriate statistical analysis for the pilot project. Fleets shall consist of at least 500 commercial trailers to qualify for this program.

8202. (a) Only proportionately registered commercial trailers which are base plated in California may participate in this program.

(b) Section 4604 shall not apply to commercial trailers registered under this article.

(c) The department shall have the authority to conduct an audit of the records of each owner or lessee of commercial trailer 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) Commercial trailers registered under this article shall display in a conspicuous place on both the right and the left side of each commercial trailer, 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 a size, shape, and color as to be readily legible during daylight hours from a distance of 50 feet.

8203. (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 decal which indicates that the commercial trailer has been registered under this article.

(c) Display of the distinguishing decal and California apportioned cab card shall constitute prima facie evidence that the commercial trailer is currently registered.

8204. Renewal fees shall be paid pursuant to a schedule established by the department.

8205. In addition to any other fees due for commercial trailers registered pursuant to this article, the department shall charge and collect a fee of two dollars ($2) upon initial registration and upon renewal of registration of each fleet commercial trailer, in addition to any other fee charged.

8206. Upon payment of appropriate fees, the decal and California apportioned cab card issued pursuant to this article for the commercial trailer shall remain valid until the provisions of Section 8207 have been met.

8207. (a) A fleet commercial trailer registered under this article may be deleted from the identified fleet when the fleet operator notifies this department on a form approved by the department and the distinguishing decal and California apportioned cab card issued for the commercial trailer are surrendered to the department.

(b) If a fleet operator fails to comply with subdivision (a), the payment of fees due for the registration of the commercial trailer shall be the responsibility of the fleet owner as though the commercial trailer remained part of the fleet.

(c) The fees determined to be due and owing under this article shall be a lien upon all commercial trailers 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.

8208. The director shall adopt procedures for initial application, payment of fees, fleet additions or deletions, and for the cancellation of the distinguishing decals and California apportioned cab card issued to a commercial trailer of a fleet owner or lessee who does not comply with this article.

8209. Registration of any identified fleet commercial trailer is required annually.

8210. The department shall evaluate the permanent fleet registration program during the third year of the program's operation. A report summarizing the department's findings shall be submitted to the Legislature.

CHAPTER 793

An act to repeal and add Section 27204 of, and to repeal Sections 27204.5 and 27205 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 27204 of the Vehicle Code is repealed.

SEC. 2. Section 27204 is added to the Vehicle Code, to read:

27204. For the purposes of Section 27200, the following noise limits shall apply to any motor vehicle within the specified manufacturer's gross vehicle weight rating and date of manufacture:

GVWR-Pounds	Date of Manufacture	Noise Limit - dbA
Over 6,000	after 1967 and before 1973	88
Over 6,000	after 1972 and before 1975	86
Over 6,000	after 1974 and before 1978	83
Over 8,500	after 1977 and before 1982	83
Over 6,000 but not over 8,500	after 1977	80
Over 8,500 but not over 10,000	after 1981	80
Over 10,000	after 1981 and before 1986	83
Over 10,000	after 1985	80

SEC. 3. Section 27204.5 of the Vehicle Code is repealed.

SEC. 4. Section 27205 of the Vehicle Code is repealed.

SEC. 5. 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 794

An act to amend Sections 26, 2400, 4004, 8010, and 8153 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 26 of the Vehicle Code is amended to read:

26. No person shall engage in the business of soliciting or receiving any application for the registration, reregistration, or transfer of registration of any vehicle of a type subject to registration under this code, or for a driver's license, or of transmitting or presenting the same to the department or any branch office thereof, when any compensation is solicited or received for the service. This section does not apply to a common carrier acting in the regular course of its business in transmitting the applications, nor to an agency or bureau if the department is informed in writing by the person represented that the agency or bureau is his representative and the department has granted permission to the agency or bureau to act as such representative.

This section does not apply to a person who solicits applications for, or sells for profit, nonresident permits for the operation of vehicles within this state.

SEC. 2. Section 2400 of the Vehicle Code is amended to read:

2400. The commissioner shall administer Chapter 4 (commencing with Section 10850) of Division 4, Article 3 (commencing with Section 17300) of Chapter 1 of Division 9, Division 10 (commencing with Section 20000), Division 11 (commencing with Section 21000), except Chapter 11 (commencing with Section 22950), Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14 (commencing with Section 31600), Division 14.1 (commencing with Section 32000), Division 14.5 (commencing with Section 33000), Division 14.8 (commencing with Section 34500), Division 15 (commencing with Section 35000), Division 16 (commencing with Section 36000) except Chapter 2 (commencing with Section 36100) and Chapter 3 (commencing with Section 36300), and Division 16.5 (commencing with Section 38000) except Chapter 2 (commencing with Section 38010).

The commissioner shall enforce all laws regulating the operation of vehicles and the use of the highways except that, on ways or places to which Section 592 makes reference, the commissioner shall not be required to provide patrol or enforce any provisions of this code other than those provisions applicable to private property.

The commissioner shall not be required to provide patrol for or enforce any provisions of Division 16.5 (commencing with Section

38000).

The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of such provisions and laws, and for the investigation of traffic accidents, on all state highways constructed as freeways within incorporated areas of the state; provided, however, that city police officers while engaged primarily in general law enforcement duties may incidentally enforce state and local traffic laws and ordinances on state freeways. In any city having either a population in excess of 2,000,000 or an area of more than 300 square miles city, police officers shall have full responsibility and primary jurisdiction for the administration and enforcement of such laws and ordinances, unless the city council of any such city shall by resolution request administration and enforcement of such laws by the commissioner.

The commissioner may enter into any interagency agreement with the Board of Equalization for the purpose of enforcement of statutes requiring commercial vehicles from foreign jurisdictions to have a diesel fuel tax permit and to make payments to the board as required.

SEC. 3. Section 4004 of the Vehicle Code is amended to read:

4004. (a) Commercial vehicles meeting the registration requirements of a foreign jurisdiction, and subject to registration but not entitled to exemption from registration or licensing under any of the provisions of this code or any agreements, arrangements, or declarations made under Article 3 (commencing with Section 8000) of Chapter 4, may, as an alternate to such registration, secure a temporary registration to operate in this state for a period of not to exceed 90 days, or a trip permit to operate in this state for a period of four consecutive days.

Each trip permit shall authorize the operation of a single vehicle for a period of not more than four consecutive days, commencing with the day of first use and three consecutive days thereafter. Every permit shall identify, as the department may require, the vehicle for which it is issued. Each trip permit shall be completed prior to operation of the vehicle on any highway in this state and shall be carried on the vehicle to which it applies in an appropriate receptacle inaccessible from the inside of the cab and shall be readily available for inspection by a peace officer. Each permit shall be valid at the time of inspection by a peace officer only if it has been completed as required by the department and has been placed in the appropriate receptacle as required by this section. It is unlawful for any person to fail to comply with the provisions of this section.

(b) The privilege of securing and using a trip permit shall not extend to:

(1) Any vehicle which is based within this state and which is operated by a person having an established place of business within this state. For purposes of this paragraph, a vehicle shall be considered to be based in this state if it is primarily operated or dispatched from or principally garaged or serviced or maintained at

a site with an address within this state.

(2) Vehicles registered in any jurisdiction with which the State of California does not have vehicle licensing reciprocity, unless the Reciprocity Commission extends such privilege, by rule, after hearing.

(c) The temporary registration or trip permit authorized pursuant to this section shall include the diesel fuel permit number issued by the Board of Equalization. Any temporary registration or trip permit for a diesel power unit which does not include this information shall be invalid and shall subject the operator to citation for violation of subdivision (a) of Section 4000. All fees for registration of vehicles shall be due upon the issuance of such a citation, unless the person in whose name the permit was issued can produce proof of issuance of a California fuel tax permit prior to the date of the violation.

SEC. 3.5. Section 4004 of the Vehicle Code is amended to read:

4004. (a) Commercial vehicles meeting the registration requirements of a foreign jurisdiction, and subject to registration but not entitled to exemption from registration or licensing under any of the provisions of this code or any agreements, arrangements, or declarations made under Article 3 (commencing with Section 8000) of Chapter 4, may, as an alternate to such registration, secure a temporary registration to operate in this state for a period of not to exceed 90 days, or a trip permit to operate in this state for a period of four consecutive days.

Each trip permit shall authorize the operation of a single vehicle for a period of not more than four consecutive days, commencing with the day of first use and three consecutive days thereafter. Every permit shall identify, as the department may require, the vehicle for which it is issued. Each trip permit shall be completed prior to operation of the vehicle on any highway in this state and shall be carried on the vehicle to which it applies in an appropriate receptacle inaccessible from the inside of the cab and shall be readily available for inspection by a peace officer. Each permit shall be valid at the time of inspection by a peace officer only if it has been completed as required by the department and has been placed in the appropriate receptacle as required by this section. It is unlawful for any person to fail to comply with the provisions of this section.

(b) The privilege of securing and using a trip permit or a temporary registration for not to exceed 90 days shall not extend to:

(1) Any vehicle which is based within this state and which is operated by a person having an established place of business within this state. For purposes of this paragraph, a vehicle shall be considered to be based in this state if it is primarily operated or dispatched from or principally garaged or serviced or maintained at a site with an address within this state.

(2) Vehicles registered in any jurisdiction with which the State of California does not have vehicle licensing reciprocity, unless the Reciprocity Commission extends such privilege, by rule, after

hearing.

(c) The temporary registration or trip permit authorized pursuant to this section shall include the diesel fuel permit number issued by the Board of Equalization. Any temporary registration or trip permit for a diesel power unit which does not include this information shall be invalid and shall subject the operator to citation for violation of subdivision (a) of Section 4000. All fees for registration of vehicles shall be due upon the issuance of such a citation, unless the person in whose name the permit was issued can produce proof of issuance of a California fuel tax permit prior to the date of the violation.

SEC. 4. Section 8010 of the Vehicle Code is amended to read:

8010. (a) Notwithstanding the provisions of this chapter, the commission may establish a pilot program to enter into agreements with other jurisdictions to provide for proportionate registration and licensing that fosters the concept of the International Registration Plan of one license plate and one cab card. Foreign jurisdictions participating in the pilot program may be authorized to collect all appropriate registration and license fees that are due to the State of California, and remit such fees to this state pursuant to the terms of the agreement. The State of California may collect all appropriate registration and license fees due other jurisdictions participating in the program and forward such fees as specified in the agreement. The authority to issue plates, tabs, permits, or other operating indicia shall be provided for in such agreement.

(b) No pilot program shall be adopted that may result in a loss of revenue as the revenues are now produced under applicable sections of the Vehicle Code and Revenue and Taxation Code and deposited in the Motor Vehicle Account and the Vehicle License Fee Account in the State Transportation Fund.

Before a pilot program is adopted, the commission shall consider the ramifications of the following:

(1) The definition of a fleet.

(2) Base state determination.

(3) Owner or operator and carrier reporting criteria.

(c) The commission shall make every effort to obtain federal funds to finance any implementation and ongoing expenditures of the pilot program that may result.

(d) This section shall remain in effect only until January 1, 1985, and on such date is repealed unless a later enacted statute extends or deletes such date.

SEC. 5. Section 8153 of the Vehicle Code is amended to read:

8153. The application shall declare the total mileage operated, or equivalent when required by the department, with each fleet of vehicles in all foreign jurisdictions and the total mileage, or equivalent as required, operated by each fleet in this state during the preceding calendar year, or a preceding 12-month period as determined by the department, and shall describe and identify each vehicle in each fleet to be operated in this state during the ensuing

license year. The application shall also designate a sufficient number of certain vehicles in each fleet to be registered and licensed under Division 3 (commencing with Section 4000) of this code and Part 5 (commencing with Section 10701) of Division 2, Revenue and Taxation Code, to produce total fee payments not less than an amount obtained by applying the proportion of instate fleet miles to total fleet miles, or equivalents when required, as reported in the application, to the fees which would otherwise be required for complete licensing and registration of the fleet in this state or, in the discretion of the department with respect to any fleet, shall, in lieu of the designation of vehicles as heretofore in this section provided, be accompanied by a fee equal to the amount computed as heretofore in this section provided.

The application shall include information concerning any diesel fuel tax permit issued by the Board of Equalization.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill 1404 are both chaptered and become effective January 1, 1983, both bills amend Section 4004 of the Vehicle Code, and this bill is chaptered after SB 1404, that the amendments to Section 4004 proposed by both bills be given effect and incorporated in Section 4004 in the form set forth in Section 3.5 of this act. Therefore, Section 3.5 of this act shall become operative only if this bill and Senate Bill 1404 are both chaptered and become effective January 1, 1983, both amend Section 4004, and this bill is chaptered after Senate Bill 4004, in which case Section 3 of this act shall not become operative.

SEC. 6. The provisions of this act shall become operative only if SB 1555 is chaptered and takes effect on or before January 1, 1983.

CHAPTER 795

An act to add Section 8539 to the Water Code, relating to waterways, 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 8539 is added to the Water Code, to read:

8539. The Legislature hereby finds and declares that there is an urgent need for channel clearing and desnagging in many California waterways, and that these snags pose a severe danger and cause unnecessary erosion of banks.

The board, other state agencies, cities, counties, and districts are hereby authorized to cooperate with one another and with agencies of the United States in the performance of channel clearing and desnagging work within the Sacramento and San Joaquin Rivers and

their tributaries, and may furnish money, services, equipment, and other property to that end. The board, as appropriate, shall consult with the Department of Water Resources, the State Lands Commission, and the Department of Fish and Game in carrying out its responsibilities pursuant to this section.

SEC. 2. A sum equal to 10 percent of the total amount appropriated in item 3860-301-190 of the Budget Act of 1982 to the Department of Water Resources shall be available to the Reclamation Board for expenditure for the purposes of this act.

Any portion of that amount available, but not expended during the 1982–83 fiscal year, may be expended during the 1983–84 fiscal year for the purposes of this act. It is the intent of the Legislature to appropriate funds in future years for channel clearing and desnagging of the California waterways.

This section shall become operative on the effective date of the Budget Act of 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 funds appropriated in Item 3860-301-190 of the Budget Act of 1982 and made available for the purposes of this act by Section 2 of this act will be available for expenditure when the Budget Act takes effect, and to thereby ensure that urgently needed channel clearing and desnagging work within the Sacramento and San Joaquin Rivers and their tributaries will be performed at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 796

An act to amend Section 89532 of the Education Code, relating to California State University.

[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 89532 of the Education Code is amended to read:

89532. (a) All vacant or newly established nonacademic positions shall, as far as consistent with federal, state, and campus affirmative action guidelines and the best interests of the California State University, be filled from qualified nonacademic employees currently employed by the California State University.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to

Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, 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 797

An act to add Section 17921.5 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 17921.5 is added to the Health and Safety Code, to read:

17921.5. On or after January 1, 1985, all electric hot water heaters which have a storage capacity in excess of 20 gallons and which are installed in newly-constructed condominiums or residential homes which have not been previously occupied shall have a timer with an off-on switch. The timer shall be accessible and, if it is not placed on the electric hot water heater, shall be labeled as being a switch for the hot water heater.

The provisions of this section shall be applicable only to those condominiums or residential homes containing hot water heaters which exclusively serve each condominium or residential home.

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 798

An act to add Section 255.7 to the Health and Safety Code, relating to health 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 255.7 is added to the Health and Safety Code, to read:

255.7. (a) The state department shall not deny a hospital's request to provide treatment to burn victims who are eligible under the California Children's Services Program solely on the basis that the hospital does not have separate facilities for child and adult burn victims, provided that the hospital has approval from the state department to operate a burn center pursuant to Section 1255.

(b) Subdivision (a) shall only be applied to burn units located in hospitals where there are no regional burn centers, or any other existing burn center, within an 85-mile radius of the hospital.

(c) Subdivision (a) shall only apply if the hospital seeking the exemption had a state-approved burn center in operation as of January 1, 1982, and if there is no hospital specializing in children's services within an 85-mile radius of the hospital seeking the subdivision (a) exemption.

(d) Hospitals having qualified and received a subdivision (a) exemption, shall demonstrate, at the request of the State Department of Health Services, that the nursing staff providing burn care to children victims have satisfactorily completed post-graduate training in pediatrics.

CHAPTER 799

An act to add Sections 14528.4, 14528.5, and 14528.6 to the Government Code, relating to transportation.

[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 14528.4 is added to the Government Code, to read:

14528.4. (a) During an earlier era in the development of the state highway system, many communities were promised by the State of California that major highway facilities would be constructed in their communities to accommodate future growth in highway travel and to assist in the implementation of their general plans.

(b) Because of changing social and economic considerations, many of these promised state highway facilities have not been or will not be constructed as anticipated by the communities.

(c) In the meantime, these same communities have had to deal with severe adverse consequences produced by the highway facilities not being constructed.

(d) The acquisition of highway right-of-way for facilities that

cannot now be constructed represents an asset that can now be sold to pay for alternative improvements.

(e) The sale of residential property on acquired highway right-of-way and the removal of residential property for alternative highway improvements reduce the supply of low- and moderate-income housing, cause displacement and neighborhood disruption, and have an adverse effect on the urban environment.

SEC. 2. Section 14528.5 is added to the Government Code, to read:

14528.5. (a) To resolve local transportation problems resulting from the infeasibility of a planned state transportation facility in those communities specified in Section 14528.4, the city or county in which the planned facility was to be located, or the transportation planning commission having jurisdiction over the city or county, may develop and file with the commission a local alternative transportation improvement program that addresses transportation problems and opportunities in the county which was to be served by the planned facility.

(b) Notwithstanding subdivision (a), in a county under the jurisdiction of a county transportation commission, only the county transportation commission may develop and file a local alternative transportation improvement program, except as provided in subdivision (c).

(c) The department may be requested to develop the local alternative transportation improvement program. In such a case, the local program shall be submitted as a part of the proposed state transportation improvement program under Section 14526.

(d) Prior to filing the local alternative transportation improvement program with the commission, the local program shall be submitted for review by the transportation planning agency and the department in the same manner as the regional transportation improvement program. If the transportation planning agency or the department does not adopt the local program as a part of the regional transportation improvement program or the proposed state transportation improvement program, the entity that developed and filed the local program, and the transportation planning agency if it has approved the local program, may request the commission to include the local program in the state transportation improvement program.

(e) The commission shall have the final authority regarding the content and approval of the local alternative transportation improvement program. The local program, if approved by the commission, shall be included in the state transportation improvement program adopted by the commission pursuant to Section 14529. The commission shall not approve any local alternative transportation improvement program submitted under this section after January 1, 1986.

(f) At the time the commission approved the local alternative transportation improvement program, the commission shall

authorize the department to sell, at the prevailing fair-market price, the excess properties acquired for the planned state transportation facilities, provided that any properties required for the implementation of a local alternative transportation improvement project shall not be sold. Article 8.5 (commencing with Section 54235) of Chapter 5 of Part 1 of Division 2 of Title 5 does not apply to the sale of excess property pursuant to this section. All proceeds from the sale of the excess properties, less any reimbursements due to the federal government and all costs incurred in the sale of those excess properties, shall be allocated by the commission to fund the approved local program and shall not be subject to Sections 188 and 188.8. The estimated amount of the proceeds shall be included in the adopted regional transportation improvement program and the state transportation improvement program.

(g) This section does not apply to those highways that are in the National System of Interstate and Defense Highways.

(h) It is the intent of the Legislature, in enacting this section, that the adopted local alternative transportation improvement program be used to resolve county transportation problems and to provide new transportation opportunities with a flexible, innovative, and fiscally responsible program that deals in a positive manner with environmental effects directly associated with local transportation improvements.

SEC. 3. Section 14528.6 is added to the Government Code, to read:

14528.6. A local alternative transportation improvement program shall include all of the following:

(a) A program to provide relocation assistance for residents eligible for relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of this code and guidelines adopted pursuant to Section 50460 of the Health and Safety Code.

(b) A program to provide relocation assistance for all lower-income households, regardless of their eligibility for assistance pursuant to subdivision (a), who will be displaced from their residences because of actions taken to finance or implement the local alternative improvement transportation program, including sale or removal of their residences. To be eligible for assistance, lower-income households shall have occupied their residence on the date that the local alternative transportation improvement program was approved by the commission. The program shall comply with the requirements, except eligibility requirements, of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of this code and with guidelines adopted pursuant to Section 50460 of the Health and Safety Code.

(c) A program to provide all persons or families who are not otherwise eligible for assistance pursuant to subdivisions (a) and (b), with relocation advice and moving expenses, as defined in Section 7261 and subdivisions (a) and (b) of Section 7262.

(d) A program to provide replacement housing units for persons and families of low or moderate income at an affordable housing cost. At a minimum, the program shall provide that the total number of new units for persons or families of low or moderate income to be provided shall be equal to or greater than the number of units occupied by persons or families of low or moderate income displaced by the local alternative transportation improvement program, and that the total number of new housing units to be provided for lower-income households shall be equal to or greater than the number of units occupied by lower-income households displaced by the local alternative transportation improvement program. The number of units so provided shall be determined at least one year prior to the date the commission approves the local alternative transportation improvement program. If it is not feasible to replace the total number of units required on surplus public property, other types of property shall be used in order to provide the replacement units. Replacement of the units shall be completed utilizing funds other than those derived from the sale of excess properties and shall be completed within four years of the date the persons or families are displaced or, if unoccupied, from the date of demolition or removal. Unoccupied units shall be replaced in the same ratio as units occupied by persons and families of low and moderate income in the right-of-way. When the excess properties acquired for the planned state transportation facilities are used for replacement housing, it shall be an objective of the program that, where financially feasible, the number of new housing units of persons and families of low or moderate income shall be not less than 20 percent of all new housing units developed on the aggregate surplus public property.

(e) For purposes of this section, the terms "affordable housing cost," "lower-income households," and "persons and families of low or moderate income" shall be defined as provided in Division 31 (commencing with Section 50000) of the Health and Safety Code.

(f) Unless specifically stated, this section shall in no way reduce or limit any requirements for the provision of housing for persons or families of low or moderate income as contained in any other provision of law.

(g) Except for the use of excess property itself as provided in subdivision (d), no State Highway Account funds shall be expended for planning or implementing the housing provisions of the local alternative transportation improvement program which are required to be carried out pursuant to subdivisions (b) to (d), inclusive.

CHAPTER 800

An act to amend Sections 2653, 2655, 2655.2, 2683, and 2688 of, to add Section 2684 to, and to repeal Sections 2655.1 and 2655.12 of, the Business and Professions Code, relating to physical therapists.

[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 2653 of the Business and Professions Code is amended to read:

2653. (a) An applicant who was issued a diploma by a physical therapy school not located in the United States shall meet the following requirements in order to be licensed as a physical therapist:

(1) Furnish documentary evidence satisfactory to the committee, that he or she has completed in a physical therapy school or schools a physical therapy education that entitles the applicant to practice as a physical therapist in the country where the diploma was issued. The physical therapy education received by the applicant shall reasonably include biological sciences, physical sciences and the requirements of subdivision (b) of Section 2650. The committee may require an applicant to submit documentation of his or her education to a credentials evaluation service for review and a report to the committee.

(2) Pass the written examination required in Section 2636. The requirements to pass the written examination shall not apply to an applicant who at the time of application has passed, to the satisfaction of the committee, an examination for licensure in another state, district or territory of the United States, that is, in the opinion of the committee, comparable to the examination given in this state.

(3) Complete a period of clinical service under the direct and immediate supervision of a physical therapist licensed by the board which does not exceed nine months in a location approved by the committee, in a manner satisfactory to the committee. The applicant shall have passed the written examination required in subdivision (b) prior to commencing the period of clinical service. The committee shall require the supervising physical therapist to evaluate the applicant and report his or her findings to the committee. The committee may in its discretion waive all or part of the required clinical service pursuant to guidelines set forth in its regulations. During the period of clinical service until he or she is issued a license as a physical therapist by the board, the applicant shall be identified as a "physical therapist license applicant."

(4) Pass an oral examination administered by the committee at the completion of the clinical service if the clinical service has not been completed in a manner satisfactory to the committee.

(b) Nothing contained in this section shall prohibit the committee

from disapproving any foreign physical therapy school nor from denying the applicant if, in the opinion of the committee, the instruction received by the applicant or the courses were not equivalent to that required in this chapter.

SEC. 2. Section 2655 of the Business and Professions Code is amended to read:

2655. As used in this article:

(a) "Physical therapist" means a registered physical therapist licensed by the Board of Medical Quality Assurance.

(b) "Physical therapist assistant" means a person who meets the qualifications stated in Section 2655.3 and who is approved by the examining committee to assist in the provision of physical therapy under the supervision of a physical therapist who shall be responsible for the extent, kind and quality of the services provided by the physical therapist assistant.

(c) "Physical therapist assistant" and "physical therapy assistant" shall be deemed identical and interchangeable.

SEC. 3. Section 2655.1 of the Business and Professions Code is repealed.

SEC. 4. Section 2655.2 of the Business and Professions Code is amended to read:

2655.2. A physical therapist shall not supervise more physical therapist assistants at any one time than in the opinion of the examining committee can be adequately supervised. Two physical therapist assistants shall ordinarily be considered the maximum number of physical therapist assistants that may be supervised by a physical therapist, but the examining committee may permit the supervision of a greater number by a physical therapist if, in the opinion of the examining committee, there would be adequate supervision and the public's health and safety would be served. In no case, however, shall the total number of physical therapist assistants exceed twice the number of physical therapists regularly employed by a facility.

SEC. 5. Section 2655.12 of the Business and Professions Code is repealed.

SEC. 6. Section 2683 of the Business and Professions Code is amended to read:

2683. Except as provided in Section 2684, the provisions of Article 19 (commencing with Section 2420) of Chapter 5 apply to the issuance and govern the expiration and renewal of licenses issued under this chapter.

SEC. 7. Section 2684 is added to the Business and Professions Code, to read:

2684. (a) Notwithstanding Section 2422, any license or approval for the practice of physical therapy shall expire at 12 midnight on the last day of the birth month of the licensee or holder of an approval during the second year of a two-year term, if not renewed.

(b) The committee shall establish by regulation procedures for the administration of a birth date renewal program, including, but

not limited to, the establishment of a system of staggered license expiration dates such that a relatively equal number of licenses and approvals expire monthly.

(c) To renew an unexpired license or approval, the licensee or the holder of an approval shall, on or before the dates on which it would otherwise expire, apply for renewal on a form prescribed by the committee and pay the prescribed renewal fee.

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

2688. The amount of fees provided in connection with licenses, certificates or approvals for the practice of physical therapy is as follows:

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

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

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

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

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

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

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

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

(i) The endorsement fee is five dollars ($5).

CHAPTER 801

An act to amend Sections 1774, 1774.5, and 1774.7 of, and to add Sections 1774.2 and 1774.3 to, the Government Code, relating to Governor's appointments.

[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 1774 of the Government Code is amended to read:

1774. (a) When an office, the appointment to which is vested in the Governor and Senate, either becomes vacant or the term of the incumbent thereof expires, the Governor may appoint a person to the office or reappoint the incumbent after the expiration of the term. Until Senate confirmation of the person appointed or reappointed, that person serves at the pleasure of the Governor. If the term of office of an incumbent subject to this section expires, the Governor shall have 60 days after the expiration date to reappoint the incumbent. If the incumbent is not reappointed within the 60-day period, the office shall be deemed to be vacant as of the first day following the end of the 60-day period.

(b) With respect to the appointment or reappointment by the Governor of a person to an office subject to confirmation by the Senate, the Governor shall submit the name of the person appointed, or the name of the incumbent reappointed, and the effective date of the appointment or reappointment to the Senate or, if the Senate is in recess or has adjourned, to the Secretary of the Senate, within 60 days after the person first began performing the duties of the office, or, as to the reappointment of an incumbent, within 90 days after the expiration date of the term. If the Governor does not provide the required notification within 60 days after the person first began performing the duties of the office, or, as to the reappointment of an incumbent to an office after the expiration date of the term, within 90 days after the expiration of the term, the office shall be deemed to be vacant as of the first day immediately following the end of the applicable period.

(c) If the Senate either refuses to confirm, or fails to confirm within 365 days after the day the person first began performing the duties of the office, or, with respect to an incumbent whose appointment to that office previously had been confirmed by the Senate and who is reappointed to that office, within 365 days after the expiration date of the term, the following shall apply:

(1) If the Senate refuses to confirm, the person may continue to serve in that office until 60 days have elapsed since the refusal to confirm or until 365 days have elapsed since the person first began performing the duties of the office, whichever occurs first, or with

respect to an incumbent whose appointment to that office previously had been confirmed by the Senate and who is reappointed to that office, until 60 days have elapsed since refusal or until 365 days after the expiration date of the prior term, and the office for which the appointment was made shall be deemed to be vacant as of the first day immediately following the end of the applicable period.

(2) If the Senate fails to confirm within the applicable 365-day period, the person may not continue to serve in that office, and the office for which the appointment was made shall be deemed to be vacant as of the first day immediately following the end of the 365-day period.

SEC. 2. Section 1774.2 is added to the Government Code, to read:

1774.2. (a) For any person whose term of office expires prior to Senate confirmation and who is reappointed to that office, the time served prior to, as well as subsequent to, the expiration date of the prior term shall be counted for purposes of Section 1774.

(b) For any person who resigns an office prior to Senate confirmation and who is reappointed to that office at any time within 365 days of the resignation, the time served prior to, as well as subsequent to, the resignation shall be counted for purposes of Section 1774.

(c) The subsequent appointment of a person to an office 365 days or more after the date the person last served in that office shall be considered a new appointment, and not a reappointment, for purposes of Section 1774.

SEC. 3. Section 1774.3 is added to the Government Code, to read:

1774.3. With respect to any body or entity having more than one member, including, but not limited to, a board, commission, or committee, "office" includes every position on the body or entity, regardless of qualifications, expiration date of the term, or duties and responsibilities of the position.

SEC. 4. Section 1774.5 of the Government Code is amended to read:

1774.5. Notwithstanding any other provisions of law, no person holding an office which is deemed to be vacant pursuant to Section 1774 may, after the time the office has been deemed to be vacant pursuant to those provisions, continue to discharge the duties of the office, and no warrant shall be drawn by the Controller for the payment of any salary or expenses of that person attributable to the discharge of the duties of the office after that time. In addition, the Governor shall not reappoint the person to the same office for a period of 365 days after the time the office has been deemed to be vacant.

SEC. 5. Section 1774.7 of the Government Code is amended to read:

1774.7. Sections 1774, 1774.2, 1774.3, and 1774.5 shall apply to any person appointed, or reappointed, prior to, or on or after, January 1, 1981, except as follows:

(a) With respect to any person appointed prior to January 1, 1981,

the 365-day period specified in Section 1774 shall not commence to run until January 1, 1981.

(b) With respect to the term of office of an incumbent which expires during the period from the first Monday after January 1 of the year a newly elected Governor takes office for the first time, until January 31 of that year, inclusive, the 60-day period specified in subdivision (a) of Section 1774 and the 90-day period specified in subdivision (b) of Section 1774 shall not commence to run until February 1 of that year.

CHAPTER 802

An act to amend Section 7263 of the Government Code, relating to relocation 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 7263 of the Government Code is amended to read:

7263. (a) In addition to the payments required by Section 7262, the public entity, as a part of the cost of acquisition, shall make a payment to the owner of real property acquired for public use which is improved with a dwelling actually owned and occupied by the owner as a permanent or customary and usual place of abode for not less than 180 days prior to the initiation of negotiation for the acquisition of that property. If a homeowner has satisfied all but the 180-day requirement, and if in the judgment of the public entity the circumstances warrant it, the public entity may reduce the requirement as necessary.

(b) The payment, not to exceed fifteen thousand dollars ($15,000), shall be based on the following factors:

(1) The amount, if any, which, when added to the acquisition payment, equals the reasonable cost of a comparable replacement dwelling determined, in accordance with standards established by the public entity, to be a decent, safe, and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and the displaced person's place of employment, and available on the market.

(2) The amount, if any, which will compensate the displaced owner for any increased interest costs which he is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling. This compensation is based on an

amount, if any, which, if applied to reduce the balance of the mortgage on the replacement dwelling, will reduce the combined principal and interest payment on the mortgage on the replacement dwelling to the same level as the payment on the mortgage on the acquired dwelling. The amount shall be computed using the lesser of the principal balance of the mortgage on the replacement dwelling or the outstanding principal balance of the mortgage on the acquired dwelling and the same remaining term as that on the acquired dwelling. The amount shall also include other reasonable debt service costs incurred by the displaced owner.

For the purposes of this subdivision, if the replacement dwelling is a mobilehome, the term "mortgage," as defined in subdivision (h) of Section 7260, shall include those liens as are commonly given to secure advances on, or the unpaid purchase price of, mobilehomes, together with the credit instruments, if any, secured thereby.

(3) Reasonable expenses incurred by the displaced owner for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(c) The payment shall be made only to a displaced owner who purchases and occupies a replacement dwelling that meets standards established by the public entity within one year subsequent to the date on which he receives from the public entity final payment of all costs of the dwelling acquired by the public entity. However, the displaced owner and the public entity may agree in writing that the displaced owner may remain in occupancy of the acquired dwelling as a tenant of the public entity on the conditions that the displaced owner shall only be entitled to the payment authorized by this section on the date on which he moves from the acquired dwelling and that the payment shall be in an amount equal to that to which he would have been entitled if he had purchased and occupied a replacement dwelling one year subsequent to the date on which he received final payment of all costs of the acquired dwelling from the public entity.

CHAPTER 803

An act to add Section 26109 to the Government Code, relating to advertising on county property.

[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 26109 is added to the Government Code, to read:

26109. A county board of supervisors may, by ordinance, provide

for and regulate the sale of advertising space on county real or personal property, for the sole purpose of raising revenue for the county. Any such advertising shall comply with the provisions of Chapter 2 (commencing with Section 5200) of Division 3 of the Business and Professions Code. Nothing in this section shall be construed to empower a county to place or maintain an advertising structure, as defined in Section 5203 of the Business and Professions Code.

CHAPTER 804

An act to amend Sections 36952, 38741, and 38742 of, to amend the heading of Article 28 (commencing with Section 38741) of Chapter 5 of Part 3 of Division 15 of, to add Section 36808 to, and to repeal Sections 36864 and 36923 of, 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 36808 is added to the Food and Agricultural Code, to read:

36808. Ice cream, ice milk, and sherbet may contain safe and suitable nonmilk-derived ingredients as specified in applicable provisions of the Code of Federal Regulations. If these nonmilk-derived ingredients are used, the minimum quantity of food solids required in this chapter for ice cream, ice milk, and sherbet shall be maintained exclusively of these additives.

SEC. 2. Section 36864 of the Food and Agricultural Code is repealed.

SEC. 3. Section 36923 of the Food and Agricultural Code is repealed.

SEC. 4. Section 36952 of the Food and Agricultural Code is amended to read:

36952. Sherbet shall contain not less than 1 percent, nor more than 2 percent, milk fat and not more than 5 percent total milk solids.

SEC. 5. The heading of Article 28 (commencing with Section 38741) of Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code is amended to read:

Article 28. Bulky Flavored Yogurt

SEC. 6. Section 38741 of the Food and Agricultural Code is amended to read:

38741. Bulky flavored yogurt is yogurt, low-fat yogurt, or nonfat yogurt which contains not less than 8 percent by weight of clean,

nature, sound fruit or its equivalent in other forms, or other bulky flavoring ingredients.

SEC. 7. Section 38742 of the Food and Agricultural Code is amended to read:

38742. The milk fat content of bulky flavored yogurt may be reduced to not less than 2.8 percent. The milk fat content of bulky flavored low-fat yogurt may be reduced to not less than 1.3 percent. When bulky flavor is added to yogurt, low-fat yogurt, or nonfat yogurt, the name of the bulky flavor shall accompany the name of the product on a panel of the carton or container. The words "grade A," when used in the label of the product, shall appear on a principal panel of the container. Bulky flavored yogurt in its composition and labeling shall otherwise comply with all the requirements of Article 27 (commencing with Section 38731).

SEC. 8. 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 805

An act to amend Section 1360 of the Civil Code, relating to real property.

[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 1360 of the Civil Code is amended to read:

1360. (a) The owner of a lot or unit in any of the subdivisions referred to in Section 11004.5 of the Business and Professions Code, shall, as soon as practicable before transfer of title or the execution of a real property sales contract as defined in Section 2985, give to the prospective purchaser a copy of the declarations of restrictions, bylaws, and articles of incorporation affecting rights to the property being offered for transfer, and a true statement in writing from the governing body of any of the subdivisions referred to in Section 11004.5 of the Business and Professions Code as to the amount of any delinquent assessments and information relating to penalties, attorney's fees, and other charges therein as provided by the declaration of restrictions of the subdivision or the management documents of the governing body on the lot or unit as of the date the statement is issued.

(b) Upon written request, the governing body of any of the subdivisions referred to in subdivision (a) shall, within 10 days of the mailing or delivery of such request, provide the owner of a lot or unit in such subdivision with a copy of the declarations of restrictions, bylaws, and articles of incorporation applicable to that subdivision, together with a true statement in writing as to the amount of any delinquent assessments, penalties, attorney's fees, and other charges therein as provided by the declaration of restrictions of the subdivision or the management documents of the governing body on the lot or unit as of the date of the request. The governing body may impose a fee for providing such documents and statement, but in no event shall the fee exceed the reasonable cost to prepare and reproduce the requested documents.

(c) The provisions of this section, except those provisions relating to a written statement of delinquent assessments and such other charges as may be authorized by the declaration of restrictions or management documents, shall not apply to the transfer of a lot or unit the transfer of which is required to be preceded by the furnishing to a prospective purchaser of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code.

(d) Any person or entity who willfully violates the provisions of this section shall be liable to the purchaser of a lot, or unit which is subject to the provisions of this section for the actual damages and in addition thereto shall pay a penal sum in an amount not to exceed five hundred dollars ($500), and in an action to enforce such liability, the prevailing party shall be awarded reasonable attorney's fees.

(e) Nothing in this section shall affect the validity of title to real property transferred in violation of the provisions of this section.

CHAPTER 806

An act to amend Section 13108.5 of the Health and Safety Code, and to add Article 9 (commencing with Section 4201) to Chapter 1 of Part 2 of Division 4 of, and to repeal Section 4291.5 of, the Public Resources Code, relating to wildland fire prevention.

[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 13108.5 of the Health and Safety Code is amended to read:

13108.5. The State Fire Marshal shall adopt, amend, and repeal regulations for roof coverings and openings into the attic areas of buildings in those fire hazard severity zones designated by the Director of Forestry pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources

Code.

The regulations shall be consistent with the rules and regulations adopted by the Commission of Housing and Community Development pursuant to Section 17922 and shall apply to buildings subject to this part located in fire hazard severity zones within state responsibility areas. The regulations shall be enforced by the agency responsible for enforcement of this part within each zone.

The State Fire Marshal shall take into account the rating, reflecting the degree of severity of fire hazard assigned pursuant to Section 4203 of the Public Resources Code for each of the fire hazard severity zones.

The regulations adopted pursuant to this section are applicable to new buildings constructed and to existing buildings when 50 percent or more of the roof area is reroofed pursuant to a building permit when the application for the permit is filed after the effective date of the regulations. When there is no building permit, the regulations are applicable to buildings constructed and to buildings where 50 percent or more of the roof area is reroofed after the effective date of the regulations.

SEC. 2. Section 4291.5 of the Public Resources Code is repealed.

SEC. 3. Article 9 (commencing with Section 4201) is added to Chapter 1 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 9. Fire Hazard Severity Zones

4201. The purpose of this article is to provide for the classification of lands within state responsibility areas in accordance with the severity of fire hazard present for the purpose of identifying measures to be taken to retard the rate of spreading and to reduce the potential intensity of uncontrolled fires that threaten to destroy resources, life, or property.

4202. The director shall classify lands within state responsibility areas into fire hazard severity zones. Each zone shall embrace relatively homogeneous lands and shall be based on fuel loading, slope, fire weather, and other relevant factors present.

4203. (a) The director shall, by regulation, designate fire hazard severity zones and assign to each zone a rating reflecting the degree of severity of fire hazard that is expected to prevail in the zone.

(b) No designation of a zone and assignment of a rating shall be adopted by the director until the proposed regulation has been transmitted to the board of supervisors of the county in which the zone is located at least 45 days prior to the adoption of the proposed regulation and a public hearing has been held in that county during that 45-day period.

4204. The director shall periodically review zones designated and rated pursuant to this article and, as necessary, shall revise zones or their ratings or repeal the designation of zones. Any revision of a zone or its rating or any repeal of a zone shall conform to the

requirements of Section 4203. In addition, the revision or repeal of a zone may be petitioned pursuant to Section 11347 and 11347.1 of the Government Code.

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 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 807

An act to add Section 113.5 to the Streets and Highways Code, relating to state highways.

[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 113.5 is added to the Streets and Highways Code, to read:

113.5. A city or county may enter into a cooperative agreement with the department to fund the construction or improvement of a segment of a state highway located in whole or in part within its jurisdiction. When the project is included in the state transportation improvement program pursuant to Section 14529 of the Government Code, the project shall be constructed by the department. Upon completion of construction, the highway segment shall be in the possession and control of, and operated and maintained by, the department.

CHAPTER 808

An act to amend Sections 14957 and 14959 of, and to add Section 15790.5 to, the Government Code, relating to public works.

[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 14957 of the Government Code is amended to read:

14957. The Division of Architecture Revolving Fund in the State Treasury is continued in existence and is retitled the Architecture Revolving Fund. With the approval of the Department of Finance,

and except as otherwise specified in this section there shall be transferred to, or deposited in, the fund all money appropriated, contributed, or made available from any source, including sources other than state appropriations, for expenditure on work within the powers and duties of the Department of General Services with respect to the construction, alteration, repair, and improvement of state buildings, including but not limited to services, new construction, major construction and equipment, minor construction, maintenance, improvements and equipment, and other building and improvement projects, as authorized by the state agency for which such an appropriation is made or, as to funds from sources other than state appropriations, as may be authorized by written agreement between the contributor or contributors of such funds and the Department of General Services, when approved by the Department of Finance.

Money from state sources transferred to, or deposited in, the fund for major construction shall be limited to the amount necessary based on receipt of competitive bids. Money transferred for this purpose shall be upon approval of the Department of Finance. Any amount available, in the state appropriation, which is in excess of the amount necessary based on receipt of competitive bids, shall be immediately transferred to the credit of the fund from which the appropriation was made.

Money in the fund also may be used, upon approval of the Department of Finance, to finance the cost of any construction projects within the powers and duties of the Department of General Services for which the federal government will contribute a partial cost thereof; provided, written evidence has been received from a federal agency that money has been appropriated by Congress and the federal government will pay to the state the amount specified upon the completion of construction of the project. The Director of General Services may approve plans, specifications and estimates of cost, and advertise for and receive bids on such projects in anticipation of the receipt of such evidence.

Money so transferred or deposited is available for expenditure by the Department of General Services for the purposes for which appropriated, contributed, or made available, without regard to fiscal years and irrespective of the provisions of Section 16304.

SEC. 2. Section 14959 of the Government Code is amended to read:

14959. The Department of General Services shall keep a record of all expenditures chargeable against each specific portion of the revolving fund, and any unencumbered balance in any portion of the fund, either within three months after completion of the project for which such portion was transferred or within three years from the time such portion was transferred or deposited therein, whichever is the earlier, shall be withdrawn from the revolving fund and transferred to the credit of the fund from which the appropriation was made or, as to funds from other than state appropriations, be

paid out or refunded as provided in the agreement relating to the contributions; provided, that on approval of the Department of Finance the time of such withdrawal may be extended.

For the purpose of this section an estimate, prepared by the Department of General Services upon receipt of bids, of the amount required for supervision, engineering, and other items, if any, necessary for the completion of a project on which a construction contract has been awarded shall be deemed a valid encumbrance and be included with any other valid encumbrances in determining the amount of an unencumbered balance.

SEC. 3. Section 15790.5 is added to the Government Code, to read:

15790.5. (a) The Legislature finds and declares that unnecessary procedural delays in public construction or improvement projects have consistently resulted in substantial cost overruns due to inflation, and that these overruns constitute a major burden upon the state budget. The intent of this section is to alleviate this burden through acceleration of the public work procedural process, and to balance this acceleration by providing for procedural safeguards to ensure that projects are completed efficiently, safely, and economically.

(b) The board shall meet at least twice each month for the purposes of reviewing and making decisions on projects for construction or improvements, in order to carry out the requirements of this section. The board may meet more infrequently if the board determines that its workload level is sufficiently low that it is able to carry out the requirements of this section without meeting at least twice each month.

(c) No board action shall be required on any project for any of the following project phases: acquisition of equipment, preliminary surveys, studies, planning, or preliminary plans. However, no money appropriated in the annual budget act, other than amounts needed for the acquisition of equipment, preliminary surveys, studies, planning, or preliminary plans, for any major capital outlay project may be expended by any state agency until the board has approved the completed preliminary plans for the project. No changes in project scope shall be allowed without the written approval of the Department of Finance. The board's review of preliminary plans shall ensure that projects proceeding into the working drawing and construction phases are both of the following:

(1) Consistent with the legislatively approved cost and scope.

(2) Carried out with all due speed and diligence.

No subsequent review by the board shall be required, except in those instances where augmentations pursuant to Sections 16352 and 16409 are required, or as provided in subdivision (d).

(d) The board shall provide an oversight and ongoing review of each project subject to its jurisdiction, and may impose reasonable conditions with regard to any particular project, such as reasonable deadlines in accordance with applicable contracts, upon the state

agency conducting the project. In order to enable the board to carry out its duties under this subdivision, the state agency conducting the project shall submit a quarterly report, which shall include, but not be limited to, the progress of the project with respect to its anticipated schedule, scope, and projected expenditure of funds.

SEC. 2. This act shall remain in effect until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

CHAPTER 809

An act to add Section 53647.5 to the Government Code, relating to financial affairs of local agencies.

[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 53647.5 is added to the Government Code, to read:

53647.5. Notwithstanding any other provision of law, interest earned on any bail money deposited in a bank account pursuant to Section 1463.1 of the Penal Code and Section 53679 of this code shall, if the board of supervisors so directs, be allocated for the support of the courts in that county.

CHAPTER 810

An act to repeal and add Chapter 3.7 (commencing with Section 7180) of Part 1 of Division 7 of the Health and Safety Code, relating to death.

[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 3.7 (commencing with Section 7180) of Part 1 of Division 7 of the Health and Safety Code is repealed.

SEC. 2. Chapter 3.7 (commencing with Section 7180) is added to Part 1 of Division 7 of the Health and Safety Code, to read:

CHAPTER 3.7. DEATH

Article 1. Uniform Determination of Death Act

7180. (a) An individual who has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards.

(b) This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

(c) This article may be cited as the Uniform Determination of Death Act.

Article 2. Confirmation of Death

7181. When an individual is pronounced dead by determining that the individual has sustained an irreversible cessation of all functions of the entire brain, including the brain stem, there shall be independent confirmation by another physician.

7182. When a part of the donor is used for direct transplantation pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150)) and the death of the donor is determined by determining that the individual has suffered an irreversible cessation of all functions of the entire brain, including the brain stem, there shall be an independent confirmation of the death by another physician. Neither the physician making the determination of death under Section 7155.5 nor the physician making the independent confirmation shall participate in the procedures for removing or transplanting a part.

7183. Complete patient medical records required of a health facility pursuant to regulations adopted by the department in accordance with Section 1275 shall be kept, maintained, and preserved with respect to the requirements of this chapter when an individual is pronounced dead by determining that the individual has sustained an irreversible cessation of all functions of the entire brain, including the brain stem.

CHAPTER 811

An act to amend Section 1988 of the Civil Code, relating to personal property.

[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 1988 of the Civil Code is amended to read:

1988. (a) If the personal property described in the notice is not released pursuant to Section 1987, it shall be sold at public sale by

competitive bidding. However, if the landlord reasonably believes that the total resale value of the property not released is less than three hundred dollars ($300), the landlord may retain such property for his or her own use or dispose of it in any manner. Nothing in this section shall be construed to preclude the landlord or tenant from bidding on the property at the public sale.

(b) Notice of the time and place of the public sale shall be given by publication pursuant to Section 6066 of the Government Code in a newspaper of general circulation published in the county where the sale is to be held. The last publication shall be not less than five days before the sale is to be held. The notice of the sale shall not be published before the last of the dates specified for taking possession of the property in any notice given pursuant to Section 1983. The notice of the sale shall describe the property to be sold in a manner reasonably adequate to permit the owner of the property to identify it. The notice may describe all or a portion of the property, but the limitation of liability provided by Section 1989 does not protect the landlord from any liability arising from the disposition of property not described in the notice, except that a trunk, valise, box, or other container which is locked, fastened, or tied in a manner which deters immediate access to its contents may be described as such without describing its contents.

(c) After deduction of the costs of storage, advertising, and sale, any balance of the proceeds of the sale which is not claimed by the former tenant or an owner other than such tenant shall be paid into the treasury of the county in which the sale took place not later than 30 days after the date of sale. The former tenant or other owner may claim the balance within one year from the date of payment to the county by making application to the county treasurer or other official designated by the county. If the county pays the balance or any part thereof to a claimant, neither the county nor any officer or employee thereof is liable to any other claimant as to the amount paid.

CHAPTER 812

An act to amend Sections 527, 1033, 1094.5 and 1107 of the Code of Civil Procedure, relating to civil procedure.

[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 527 of the Code of Civil Procedure is amended to read:

527. (a) An injunction may be granted at any time before judgment upon a verified complaint, or upon affidavits if the complaint in the one case, or the affidavits in the other, show

satisfactorily that sufficient grounds exist therefor. A copy of the complaint or of the affidavits, upon which the injunction was granted, must, if not previously served, be served therewith.

A temporary restraining order or a preliminary injunction, or both, may be granted in a class action, in which one or more of the parties sues or defends for the benefit of numerous parties upon the same grounds as in other actions, whether or not the class has been certified.

No preliminary injunction shall be granted without notice to the opposite party; nor shall any temporary restraining order be granted without notice to the opposite party, unless it shall appear from facts shown by affidavit or by the verified complaint that great or irreparable injury would result to the applicant before the matter can be heard on notice and, except when applying for an order under Section 546 or under Section 4357, 4359, or 7020 of the Civil Code, the applicant or the applicant's attorney certifies to the court under oath (i) that within a reasonable time prior to the application he or she informed the opposing party or his or her attorney at what time and where the application would be made; (ii) that he or she in good faith attempted to inform the opposing party and his or her attorney but was unable to so inform the opposing party or his or her attorney, specifying the efforts made to contact them; or (iii) that for reasons specified he or she should not be required to so inform the opposing party or his or her attorney. In case a temporary restraining order shall be granted without notice, in the contingency above specified, the matter shall be made returnable on an order requiring cause to be shown why the injunction should not be granted, on the earliest day that the business of the court will admit of, but not later than 15 days or, if good cause appears to the court, 20 days from the date of the order. In cases under Section 4359 of the Civil Code the matter shall be made returnable not later than 20 days or if good cause appears to the court, 25 days from the date of the order. When the matter first comes up for hearing the party who obtained the temporary restraining order must be ready to proceed and must have served upon the opposite party at least two days prior to the hearing, a copy of the complaint and of all affidavits to be used in the application and a copy of the points and authorities in support of the application; if the party is not ready, or if he or she fails to serve a copy of his or her complaint, affidavits and points and authorities, as herein required, the court shall dissolve the temporary restraining order. The defendant, however, shall be entitled, as of course, to one continuance for a reasonable period, if he or she desires it, to enable him or her to meet the application for the preliminary injunction. The defendant may, in response to such order to show cause, present affidavits relating to the granting of the preliminary injunction, and if such affidavits are served on the applicant at least two days prior to the hearing, the applicant shall not be entitled to any continuance on account thereof. On the day upon which the order is made returnable, the hearing shall take precedence of all other matters on

the calendar of the day, except older matters of the same character, and matters to which special precedence may be given by law. When the cause is at issue it shall be set for trial at the earliest possible date and shall take precedence of all other cases, except older matters of the same character, and matters to which special precedence may be given by law.

(b) The court may, upon the filing of an affidavit by the plaintiff that the defendant could not be served on time, reissue any temporary restraining order previously issued pursuant to Section 546 and dissolved by the court for failure to serve the defendant. Any order reissued under this subdivision shall state on its face the date of expiration of the order. No fees shall be charged for the issuance of any order under this subdivision, unless such order had been dissolved three times previously.

SEC. 2. Section 1033 of the Code of Civil Procedure is amended to read:

1033. In superior courts, municipal courts and in justice courts the party in whose favor the judgment is ordered or the dismissal is granted, and who claims his or her costs, must serve upon the adverse party, and file at any time after the verdict or decision of the court, and not later than 10 days after notice of the entry of the judgment or the dismissal, a memorandum of the items of his or her costs and necessary disbursements in the action or proceeding, which memorandum must be verified by the oath of the party, or his or her attorney or agent, or by the clerk of his attorney, stating that to the best of his or her knowledge and belief the items are correct, and that the disbursements have been necessarily incurred in the action or proceeding. A party dissatisfied with the costs claimed may, within 10 days after the service of a copy of the bill of costs, file a motion to have the same taxed by the court in which the judgment was rendered or the dismissal was granted, or by the judge thereof at chambers.

The clerk or judge shall include in the judgment, or any part of a judgment, entered upon by him or her based upon a cause of action in contract where the claim was unliquidated, interest on the verdict or decision of the court from the date prior to the entry of judgment as may have been fixed by the court pursuant to subdivision (b) of Section 3287 of the Civil Code and the costs, if the same have been taxed or ascertained. In any other case, and where the court determines that interest should not be recovered from a date prior to the entry of judgment under subdivision (b) of Section 3287 of the Civil Code, the clerk or judge shall include in the judgment entered upon by him or her, any interest on the verdict or decision of the court, from the time it was rendered or made, and the costs, if the same have been taxed or ascertained. The clerk or judge shall, within two days after the costs are tried or ascertained, if not included in the judgment, insert the same in a blank left in the judgment for that purpose, and shall make a similar insertion of the costs in the copies.

SEC. 3. Section 1094.5 of the Code of Civil Procedure is amended

to read:

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in the inferior tribunal, corporation, board or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board or officer may be filed with the petition, may be filed with respondent's points and authorities or may be ordered to be filed by the court. Except when otherwise prescribed by statute, the cost of preparing the record shall be borne by the petitioner. Where the petitioner has proceeded pursuant to Section 68511.3 of the Government Code and the Rules of Court implementing that section and where the transcript is necessary to a proper review of the administrative proceedings, the cost of preparing the transcript shall be borne by the respondent. Where the party seeking the writ has proceeded pursuant to the provisions of Section 1088.5, the administrative record shall be filed as expeditiously as possible, and may be filed with the petition, or by the respondent after payment of the costs by the petitioner, where required, or as otherwise directed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, such expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence; and in all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) Notwithstanding the provisions of subdivision (c), in cases arising from private hospital boards or boards of directors of districts organized pursuant to The Local Hospital District Law, Division 23 (commencing with Section 32000) of the Health and Safety Code, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record. Provided, however, in all cases in which the petition alleges discriminatory actions prohibited by Section 1316 of the Health and Safety Code, and the plaintiff makes a preliminary showing of substantial evidence in support of such allegation, the

court shall exercise its independent judgment on the evidence and abuse of discretion shall be established if the court determines that the findings are not supported by the weight of the evidence.

(e) Where the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (f) of this section remanding the case to be reconsidered in the light of such evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit such evidence at the hearing on the writ without remanding the case.

(f) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(g) Except as provided in subdivision (h), the court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing such notice whichever occurs first; provided that no such stay shall be imposed or continued if the court is satisfied that it is against the public interest; provided that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which such appeal is taken; provided that, in cases where a stay is in effect at the time of filing the notice of appeal, such stay shall be continued by operation of law for a period of 20 days from the filing of such notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which such appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of such proceedings.

(h) (1) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision of any licensed hospital or any state agency made after a

hearing required by statute to be conducted under the provisions of the Administrative Procedure Act, as set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, conducted by the agency itself or a hearing officer on the staff of the Office of Administrative Hearings pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing such notice whichever occurs first; provided that such stay shall not be imposed or continued unless the court is satisfied that the public interest will not suffer and that the licensed hospital or agency is unlikely to prevail ultimately on the merits; and provided further that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(2) The standard set forth in this subdivision for obtaining a stay shall apply to any administrative order or decision of an agency which issues licenses pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act. With respect to orders or decisions of other state agencies, the standard in this subdivision shall apply only when the agency has adopted the proposed decision of the hearing officer in its entirety or has adopted the proposed decision but reduced the proposed penalty pursuant to subdivision (b) of Section 11517 of the Government Code; otherwise the standard in subdivision (g) shall apply.

(3) If an appeal is taken from a denial of the writ, the order or decision of the hospital or agency shall not be stayed except upon the order of the court to which such appeal is taken; provided that, in cases where a stay is in effect at the time of filing the notice of appeal, such stay shall be continued by operation of law for a period of 20 days from the filing of such notice. If an appeal is taken from the granting of the writ, the order or decision of the hospital or agency is stayed pending the determination of the appeal unless the court to which such appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of such proceedings.

SEC. 4. Section 1107 of the Code of Civil Procedure is amended to read:

1107. When an application is filed for the issuance of any prerogative writ, the application shall be accompanied by proof of service of a copy thereof upon the respondent and the real party in interest named in such application. The provisions of Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 shall apply to

the service of the application. However, when a writ of mandate is sought pursuant to the provisions of Section 1088.5, the action may be filed and served in the same manner as an ordinary action under Part 2 (commencing with Section 307). Where the real party in respondent's interest is a board or commission, the service shall be made upon the presiding officer, or upon the secretary, or upon a majority of the members, of the board or commission. Within five days after service and filing of the application, the real party in interest or the respondent or both may serve upon the applicant and file with the court points and authorities in opposition to the granting of the writ.

The court in which the application is filed, in its discretion and for good cause, may grant the application ex parte, without notice or service of the application as herein provided.

The provisions of this section shall not be applicable to applications for the writ of habeas corpus, or to applications for writs of review of the Industrial Accident or Public Utilities Commissions.

CHAPTER 813

An act to amend Sections 6537.2 and 6548 of, and to repeal and add Section 6511.7 of, the Business and Professions Code, relating to barbers.

[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 6511.7 of the Business and Professions Code is repealed.

SEC. 2. Section 6511.7 is added to the Business and Professions Code, to read:

6511.7. The duties of an examiner-field representative shall be limited to the administration of barber, barber instructor, and barber apprentice examinations, inspection of licensed barber shops and schools, and the assistance in the processing of formal disciplinary actions.

SEC. 3. 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 hair stylist licensed in this state or in any other state or country to practice barbering to lecture on or demonstrate any phase of hair styling.

(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 five hours per week.

SEC. 4. 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 clearly job-related questions on the following subjects:

(a) Sanitation, antiseptics, sterilization, hygiene, bacteria, and health and safety aspects of consumer protection.

(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) Implements 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*) 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.

CHAPTER 814

An act to amend Section 48432 of, and to add Sections 52314.5 and 52314.7 to, the Education Code, relating to vocational education.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 48432 of the Education Code is amended to read:

48432. The governing board of each high school district and each unified school district shall establish and maintain within its boundaries special continuation education classes and may establish and maintain regional occupational centers or programs, in accordance with the provisions of Section 52301, whenever there are any minors residing within the district who are subject to compulsory continuation education; provided, that if there are fewer than 100 students enrolled in grade 12 in any school of the district maintaining that grade, the governing board of the district may apply to the State Department of Education for exemption of that school from the requirements of this section and such exemption may be granted in accordance with rules and regulations that shall be adopted by the State Board of Education to govern the granting of the exemptions. An exemption may also be granted to schools having an enrollment of more than 100 pupils in grade 12 if the district seeking the exemption has entered into an agreement with another high school district or unified school district to maintain special continuation education classes for minors residing in either of the districts, but shall not be granted if the agreement would make it necessary for such minors to travel an excessive distance from their homes to the continuation education classes.

If there is a regional occupational center or program as provided in Article 1 (commencing with Section 52300) of Chapter 9 of Part 28, of this division within a county, the governing board of any school district within that county may enroll minors, otherwise subject to, and in lieu of, continuation education, in the center or program in accordance with the provisions of Section 52314.

Any minor admitted to a regional occupational center or program under the provisions of Section 52314.5 shall be considered to have enrolled in the regional occupational center or program in lieu of continuation education classes. Nothing in this section shall prohibit

a minor from enrolling in a program of continuation education or a regular high school program if the minor voluntarily chooses to enroll in the program.

SEC. 2. Section 52314.5 is added to the Education Code, to read:

52314.5. A regional occupational center or program established and maintained by a county superintendent of schools, school districts, or joint power agencies pursuant to Section 52301 shall admit youths between the ages of 16 to 18 years who are eligible to attend a high school in a school district, but who have not been enrolled on a full-time or part-time basis for a period of more than three months during the regular school year, on the same basis as, and applying the same criteria for admission as would be applied to, any pupil enrolled in a high school in a school district who is eligible to attend the regional occupational center or program.

It is the intent of the Legislature that pupils admitted to a regional occupational center or program under this section shall be encouraged to return to high school in order to acquire the knowledge and skills necessary to prepare them for adult life.

SEC. 3. Section 52314.7 is added to the Education Code, to read:

52314.7. (a) The average daily attendance of pupils admitted to a regional occupational center or program pursuant to Section 52314.5 shall be computed at the rate of average daily attendance available for high school pupils.

(b) This section shall only be operative in a fiscal year for which the Budget Act for that fiscal year limits the amount of funds which may be apportioned for regional occupational centers or programs.

CHAPTER 815

An act to amend Sections 9889.19 and 9889.20 of, and to add Article 10 (commencing with Section 9889.30) to Chapter 20.3 of Division 3 of, the Business and Professions Code, relating to automotive repair facility certification, and making an appropriation therefor.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 9889.19 of the Business and Professions Code is amended to read:

9889.19. The director may charge a fee for lamp and brake adjustment certificates, certificates of compliance, and certificates of noncompliance furnished to licensed stations. The fee charged shall be established by regulation and shall not produce a total estimated revenue which, together with license fees or certification fees charged pursuant to Sections 9886.3, 9887.2, 9887.3, and 9889.44, is in excess of the estimated total cost to the bureau of the administration

of this chapter.

SEC. 2. Section 9889.20 of the Business and Professions Code is amended to read:

9889.20. Except as otherwise provided in Sections 9889.21 and 9889.48, any person who fails to comply in any respect with the provisions of this chapter is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment not exceeding six months, or by both such fine and imprisonment.

SEC. 3. Article 10 (commencing with Section 9889.30) is added to Chapter 20.3 of Division 3 of the Business and Professions Code, to read:

Article 10. Automotive Repair Facility Certification

9889.30. The Legislature hereby intends to create a program to be known as the Better Auto Repair Program to assist California motor vehicle owners in selecting a competent automotive repair facility, through a system that is simple, accurate, and regularly updated.

The Legislature recognizes the great dilemma faced by California motorists, in a state that has the most mechanically mobile population in the history of mankind, yet one in which widespread dissatisfaction exists over repair facilities available to maintain and repair motor vehicles.

The Legislature, in establishing this program, also recognizes dilemmas faced by the automotive repair industry, with the increasing complexity and diversity of the modern automobile, the wide variety of expertise exercised by the 33,000 automotive repair facilities in the state, and the difficulties faced by any industry effort to establish and maintain industry-wide standards, particularly when faced with a shrinking labor pool of journeymen and veteran mechanics. It recognizes the desire of the overwhelming majority of repair shops to provide honest, competent repair, and the social and economic necessity for such service. The Legislature believes that this voluntary program will meet the needs of both segments.

The program shall be set up on a pilot study basis for 36 months from the effective date of this article. The study area shall include such portions of Sacramento, Placer, Yolo, San Joaquin, Yuba, and Sutter Counties as the Bureau of Automotive Repair may designate, with an emphasis to be placed on the more heavily populated areas.

9889.31. (a) The bureau shall establish standards for the certification of automotive repair facilities. These standards shall relate to mechanics' qualifications, financial stability, warranties for repair work, customer satisfaction, quality of repair equipment, and other relevant criteria as determined by the bureau.

(b) An automotive repair facility that meets the certification standards and maintains them shall be authorized to display both an emblem and a document of certification specifying the area or areas

of automotive repair for which the facility has met certification standards. The emblem and document of certification shall be the property of the State of California and shall remain so even when issued to a facility for display.

(c) The bureau shall regularly publish a list of certified automotive repair facilities in the pilot study area, and shall make the list available for free public distribution.

(d) As used in this article, an "automotive repair facility" means an automotive repair dealer registered pursuant to Section 9884 and the preponderance of whose motor vehicle repair work is to passenger vehicles, excluding motorcycles or other specialty vehicles.

9889.32. The bureau shall promulgate standards for the certification of automotive repair facilities, which shall include, but not be limited to, the following:

(a) Mechanics' qualifications. As a requirement for certification, a facility must employ at least one mechanic in each service area in which it offers repair services who meets one or more of the following requirements:

(1) The satisfactory completion of written or practical examinations relating to automotive repair, such as those offered by national or regional automotive organizations.

(2) The satisfactory completion of apprenticeship training programs in the field of automotive repair.

(3) Specified years of practical experience in automotive repair.

(4) The satisfactory completion of other training programs or other measures of qualification which the bureau shall adopt by regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

A facility which employs 10 or fewer mechanics may be certified in one or more repair areas based on the qualifications of one mechanic.

(b) Standards of financial responsibility and stability, including a minimum period of six months of doing business as an automotive repair facility in the State of California, a satisfactory credit rating, and adequate property damage and liability insurance coverage.

(c) Standards of warranty, including a minimum guarantee on all repairs of at least three months or 3,000 miles, whichever occurs first, except that the bureau may establish higher minimum standards in areas of repairs in which the industry standards exceed the above minimums.

(d) Acceptable levels of customer satisfaction. The bureau shall devise methods to measure customer satisfaction, which may include, but are not limited to, postcard surveys, to determine if the facility meets an acceptable level of customer satisfaction. The surveys shall include a statement informing the respondents that the survey is a routine and regular part of the certification process, taken among customers of all shops, and aimed at measuring and helping

to maintain the level of customer satisfaction among repair facilities.

(e) Standards for repair equipment, including proper calibration and maintenance standards, and types of repair equipment required.

It shall be the responsibility of the bureau to promulgate these standards with the assistance and advice of the board and 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, except that these standards shall only be adopted after at least two public hearings have been held in the pilot study area.

9889.33. The bureau shall promulgate, 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, rules and regulations relating to the certification of registered automotive repair facilities, which shall include, but not be limited to, rules and regulations setting forth the following:

(a) An application procedure for interested automotive repair dealers and an onsite inspection procedure to be performed by the bureau staff to determine compliance with standards for certification established pursuant to Sections 9889.31 and 9889.32. As part of the application procedure, the applicant shall be required to post "A Notice to Employees of Intent to Seek Certification." The notice shall be prepared by the bureau and shall be posted by the applicant in a place conspicuous to his or her employees but not to the public. The notice shall explain briefly the certification program and how further information may be obtained.

(1) The bureau shall establish standards for certification in the following areas of automotive repair:

(A) Engine tune-up and emissions control repair.

(B) Brake repair.

(C) Electrical repair.

(D) Air conditioning and heating repair.

(E) Minor engine repair.

(F) Manual transmission repair.

(G) Automatic transmission repair.

(H) Major engine repair.

(I) Front end alignment and repair.

(2) The procedures shall set forth the basic requirements for application and certification in one or more of these areas of automotive repair. Every automotive repair facility for which an application for certification has been made shall be required to meet certification standards in each area of automotive repair listed above in which it offers services.

This provision shall not be construed to prohibit an automotive repair facility that is certified in one area from performing emergency repairs in another area for which it is not certified if the safety of a motorist or others is involved, or from offering or performing repair work or related services in areas other than the areas listed above.

(3) Any certified automotive repair facility may sublet or

subcontract repair work in any area for which it is certified. The subcontractor need not be certified, but the certified automotive repair facility shall be responsible for the repairs performed by the subcontractor in the same manner as if the repairs were performed by the certified automotive repair facility. The bureau may place a ceiling on the percentage of repairs that a certified automotive repair facility may sublet, if the bureau deems it necessary to protect the integrity and purpose of the certification program.

(4) A dealer applying for certification who sublets or plans to sublet any part of the repairs in an area for which he or she seeks certification shall so state in his or her original application or by followup notification to the chief. Such a dealer shall not be required to employ a mechanic who meets the qualifications set forth in subdivision (a) of Section 9889.32 for that service area.

(b) A certification procedure that shall include an investigation by the bureau staff and a final decision by the chief that the automotive repair facility does or does not meet the minimum standards required for certification.

Any dealer whose facility has been denied certification shall be provided, pursuant to Section 9889.34, with a notice specifying why certification was denied and what the dealer may do to obtain certification.

A dealer whose application for certification has been denied because of specified deficiencies shall have the right to submit to the bureau evidence of the correction of such deficiencies and to request, in writing, that the application for certification be reevaluated in light of that evidence. The bureau shall be required to reevaluate an application for certification within three months after receiving a request to do so. A dealer shall be permitted to make only one request for reevaluation, but may apply for certification once every three months.

(c) A decertification procedure that shall include onsite and other inspections deemed necessary, and notification by the chief to the automotive repair dealer regarding those areas in which the facility fails to meet certification standards, and specifying any corrective action that must be performed by the dealer within a specified time period, not exceeding 30 days, in order to retain certification.

If, in the opinion of the chief, the dealer has failed to correct the deficiencies within the allotted time period, the chief may, pending any final decision on decertification, revoke the dealer's right to display on the premises, and may physically remove from the premises of the facility, any emblem or document of certification issued by the bureau.

A dealer whose facility has been decertified shall have the right to apply for recertification 180 days after all appeals have been taken and the decision regarding decertification has become final.

(d) An appeals procedure which shall provide an automotive repair dealer with the following two methods of appealing an adverse decision of the chief relating to decertification or refusal to

grant certification:

(1) A dealer whose application for certification has been denied or whose facility has been decertified shall have the right to appeal that decision to the board which after giving the dealer written notice of an opportunity to appear and present his or her case before the board, may, upon a majority vote of the full board, recommend to the chief that a decision of the chief regarding denial of certification or decertification be changed. If the dealer is not satisfied with the recommendation of the board, he or she may file an action pursuant to 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 and the dealer shall have all the rights afforded under that act.

(2) A dealer whose application for certification has been denied or whose facility has been decertified shall also have the right to appeal that decision by bypassing an appeal to the board pursuant to paragraph (1) and instead directly filing an action pursuant to 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 and the dealer shall have all the rights afforded under that act.

Notwithstanding any other provision of law, any action filed pursuant to this section and any documents related thereto shall become a matter of public record only under the conditions set forth in Section 9889.47.

(e) A procedure for annual recertification which shall be based on the current standards for certification.

9889.34. The bureau shall provide any dealer who has been denied certification or whose facility has been decertified with a notice specifying the areas in which the facility fails to meet certification standards, and specifying any corrective actions that must be completed by the dealer for certification or recertification.

9889.35. The bureau shall draw up a contract to be entered into by the bureau and each automotive repair dealer seeking certification, setting forth the conditions the facility must meet to obtain and maintain its certification, and the conditions under which the facility may lose its certification and regain it. The contract shall also require that the dealer abide by the bureau's decision or, if appealed, the decision of the chief, in resolving disputes with customers, following normal hearing and investigation by the bureau of such complaints.

9889.36. Each automotive repair dealer whose facility has been certified shall notify the bureau regarding any change in ownership, location, or type of repairs offered, or any other change which may significantly affect the ability of the facility to meet standards for certification or the requirements of the contract, and failure to so notify shall be grounds for decertification. The bureau shall review the change and determine whether the facility still meets certification standards.

9889.37. The emblem and document of certification which a certified facility is authorized to display pursuant to Section 9889.31 shall not be transferable. Upon a change of ownership the old owners shall return the emblem and document of certification to the bureau and the new owners shall apply for certification in accordance with this article.

9889.38. In the event of a customer complaint against a certified facility, the bureau staff shall, upon the request of the customer, render a proposed decision on the manner by which the complaint shall be resolved. The decision shall be limited to requiring the dealer to perform additional repairs on the vehicle or pay the aggrieved customer a cash equivalent of the cost of additional repairs to be performed. The dealer shall have the right to appeal any adverse proposed decision to the chief. The chief's decision on the matter shall be final and any failure to abide by the chief's decision shall be grounds for revocation of the facility's certification, provided, that in any appeal of such a decertification the chief's decision and the facts on which it was based shall be subject to review.

9889.39. The bureau shall, on a regular basis, monitor and inspect certified automotive repair facilities. These procedures of monitoring and inspection shall include, but not be limited to, the following:

(a) Onsite inspections of each certified facility, at least once each year, to determine whether the facility still meets certification standards.

(b) Establishment of some reliable measure of customer satisfaction, such as an annual random postcard or phone survey of each certified facility's customers, to determine the degree of satisfaction or dissatisfaction with the services provided by the facility.

(c) Establishment of an undercover car visitation program, if the chief finds such a program to be appropriate and necessary, and if other methods of monitoring and inspection have proved to be unsatisfactory.

(d) Coordination of the monitoring and inspection procedures with the bureau's regular complaint-handling procedures and, when feasible, with the complaint-handling procedures of other consumer service agencies, such as better business bureaus, automobile clubs, the District Attorney, and private and public consumer groups, to provide more information relevant to the chief's decision regarding certification or decertification.

9889.40. The chief shall decertify any automotive repair facility that no longer meets certification standards. However, any decertification shall only occur after an inspection of the facility and a recommendation by the bureau staff that the facility be decertified.

9889.41. The chief shall provide the board with monthly and yearly reports on the following:

(a) The number of dealers who have applied for the certification

of their facilities, the number of facilities which have received certification, and the number of facilities which have been denied certification, along with a general discussion of the reasons for denial. The reports shall include the names and addresses of those facilities which have received certification, but shall not include the names and addresses of facilities which have been denied certification.

(b) The number of facilities which have been decertified, along with a general discussion of the reasons for decertification. The reports shall include the names and addresses of those facilities which have been decertified.

9889.42. The board, on its own motion and after giving the dealer written notice of an opportunity to appear and present his or her case before the board, may, upon a two-thirds vote of the current board membership recommend to the chief that a decision of the chief regarding the approval, denial, or revocation of certification be changed.

9889.43. The bureau shall take all steps necessary to insure widespread public knowledge of the provisions of this article, both among automobile owners and among automotive repair dealers. These steps shall include the following:

(a) Notification of all registered automotive repair dealers in the pilot study area, at least once each year, regarding application and certification procedures, and other pertinent information.

(b) Publication of a booklet or circular containing the names of all automotive repair facilities that have been certified. The booklet shall be available within the pilot study area at all offices of the Department of Motor Vehicles, the bureau, and the Department of Consumer Affairs, and shall be made available to city, county, and private consumer services operations requesting them and to other outlets as the chief may determine.

(c) Dissemination to news media on a regular basis of the names of automotive repair facilities that have been granted certification.

9889.44. In support of this article, the bureau shall do the following:

(a) Establish a fee structure for dealers applying for certification, the income from which shall not exceed the reasonable costs of administration. The bureau shall consider alternative methods, including a flat fee structure, and a fee system based on gross volume or gross receipts of repair facilities.

(b) Establish a fee structure for annual renewals.

(c) Seek sources of outside funding such as federal moneys, foundation grants, and other sources.

9889.46. A dealer whose facility has been granted certification shall have all of the following powers and duties:

(1) He or she may advertise that the automotive repair facility is certified.

(2) He or she shall post the hours during which the facility is open to the public.

(3) He or she shall reply to all customer complaints within seven

calendar days, shall participate in complaint-resolution procedures when a complaint has been made against the facility, and shall promptly comply with any decision rendered under Section 9889.38.

9889.47. Notwithstanding any other provision of law, including any provision of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(a) The fact that a repair facility has applied for certification shall only become a matter of public record if (1) certification has been granted, or (2) the applicant has appealed a denial of certification to the board or pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(b) Only an applicant, and not the chief or the bureau staff, shall have the authority to disclose to any third party the fact that its application for certification has been denied or the reasons therefor.

(c) The fact that an automotive repair facility has been decertified shall become a matter of public record at the time of the chief's decision regarding decertification. The bases for and the details of the chief's decision regarding the decertification of any automotive repair facility, including any consumer complaints or investigation reports, shall only become a matter of public record if (1) the automotive repair dealer appeals the chief's decision to the board or pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), or (2) the automotive repair dealer agrees or asks that the information be made public.

9889.48. Notwithstanding Section 9889.20, the violation of any provision of this article by a dealer whose facility has been certified shall be grounds only for the decertification of the facility and shall not be grounds for the criminal punishment of the dealer.

SEC. 4. The Office of the Legislative Analyst shall prepare a report for the Legislature within three months prior to the termination date of the project, analyzing (1) the program costs, (2) the program effectiveness, and (3) the applicability of the program for statewide use, or for limited use in portions of the state.

SEC. 5. This act shall become operative on July 1, 1983.

CHAPTER 816

An act to amend Section 22816 of the Government Code, relating to public employees.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 22816 of the Government Code is amended to read:

22816. An employee enrolled in a health benefits plan under this part who is granted a leave of absence without pay under the State Civil Service Act and the rules of the State Personnel Board, or other comparable leave, or a judge who retires under Chapter 11 (commencing with Section 75000) of Title 8 but is not yet receiving his or her pension, shall be entitled to have his or her coverage and the coverage of any family members continued for the duration of the leave of absence upon his or her application, or until he or she commences to receive his or her pension under Chapter 11 (commencing with Section 75000), but only upon assuming payment of the contributions otherwise required of the employer on account of his or her enrollment.

CHAPTER 817

An act to amend Section 4016.2 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 4016.2 of the Insurance Code is amended to read:

4016.2. (a) The presence in person or by proxy of 5 percent of the members of a general mutual insurer entitled to vote at any meeting shall constitute a quorum for the transaction of all business of the insurer, including but not limited to, the amendment of the articles of incorporation or bylaws of the insurer, unless otherwise provided in the articles of incorporation or bylaws of such insurer.

(b) Any required member approval shall be by the affirmative vote of a number of members which, as to a stock corporation, would constitute approval of the shareholders (Section 153 of the Corporations Code) rather than approval of the outstanding shares (Section 152 of the Corporations 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:

Section 1 of this act expresses the intent of the Legislature in initially enacting Section 4016.2 of the Insurance Code (Ch. 300, Stats. 81). Therefore, in order to rectify a possible misconstruction of

the original intent of the Legislature it is necessary that this act take effect immediately.

CHAPTER 818

An act to add Sections 89904.5 and 89904.6 to the Education Code, relating to the California State University.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 89904.5 is added to the Education Code, to read:

89904.5. The trustees shall, by July 1, 1983, develop and implement guidelines to ensure that auxiliary organizations classified as foundations for sponsored programs, workshops, and institutes maintain fiscal viability. These guidelines shall specify how reimbursement received by a foundation for indirect costs in connection with the performance of grants or contracts which exceeds the indirect costs actually incurred by the foundation for those grants or contracts shall be divided between the foundation and the campus of the California State University which the foundation serves, in a manner consistent with the educational mission of the university.

SEC. 2. Section 89904.6 is added to the Education Code, to read:

89904.6. The trustees shall, by July 1, 1983, develop and implement guidelines to ensure that auxiliary organizations classified as foundations for sponsored programs, workshops, and institutes, expend discretionary funds in a manner consistent with the educational mission of the university.

CHAPTER 819

An act to amend Sections 2435 and 2486 of, and to add Sections 2499.5 and 2499.6 to, the Business and Professions Code, relating to podiatry, making an appropriation therefor.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 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 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) nor less than fifteen dollars ($15). If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, the sum of ten dollars ($10) shall be retained and the remainder of the fee is returnable to the applicant.

(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. 1.5. 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 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. Section 2486 of the Business and Professions Code is amended to read:

2486. Notwithstanding any other provision of law, the board may issue, upon the recommendation of the committee, a certificate to practice podiatric medicine on the basis of a diplomate certificate issued by the National Board of Podiatry Examiners of the United States if the applicant meets the following requirements:

(a) The applicant takes and passes an oral examination administered by the committee in accordance with Section 2148.

(b) The applicant graduated from an approved school or college of podiatric medicine after June 30, 1958.

(c) The standards of the national board on the date the diplomate certificate was issued were in no degree or particular less than those required for a certificate to practice podiatric medicine under this chapter on the same date.

(d) The applicant has committed no acts or crimes constituting

grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

SEC. 3. Section 2499.5 is added to the Business and Professions Code, to read:

2499.5. The following fees apply to certificates to practice podiatric medicine.

(a) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an application fee fixed by the committee at an amount not to exceed one hundred fifty dollars ($150). If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the committee 30 days prior to the examination date, the sum of twenty dollars ($20) shall be retained and the remainder of the fee is returnable to the applicant. The committee may fix a reexamination fee not to exceed one hundred twenty dollars ($120).

(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 twenty dollars ($20) at the time the application is filed. The committee may fix an oral examination fee at an amount that does not exceed the cost of the examination, but in no event shall it exceed one hundred fifty dollars ($150), which shall be paid by each applicant required to take the examination under Section 2486. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the committee 30 days prior to the examination date, only the examination fee is returnable to the applicant. The committee may charge an examination fee for any subsequent reexamination of the applicant. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the committee 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. The initial license fee shall be fixed by the committee at a sum not in excess of three hundred dollars ($300), 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 committee. The committee 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 committee at an amount not to exceed three hundred dollars ($300). 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 wall certificate fee is an amount equal to the cost to the committee for the issuance of the duplicate certificate.

(g) The duplicate renewal receipt fee is ten dollars ($10).

(h) The endorsement fee is ten dollars ($10).

SEC. 4. Section 2499.6 is added to the Business and Professions Code, to read:

2499.6. The fees in this article shall be fixed by the committee by regulations duly adopted by the committee.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 2396 are both chaptered and amend Section 2435 of the Business and Professions Code, and this bill is chaptered after Assembly Bill No. 2396, that the amendments to Section 2435 proposed by both bills be given effect and incorporated in Section 2435 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 No. 2396 are both chaptered, both amend Section 2435, and Assembly Bill No. 2396 is chaptered before this bill, in which case Section 1 of this act shall not become operative.

CHAPTER 820

An act to add Sections 16059 and 16072.5 to the Education Code, relating to schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 16059 is added to the Education Code, to read:

16059. Notwithstanding any provision of Section 16058, if a previously eligible applicant school district has received apportionments and has realized savings in state aid apportionments or district contributions, or both, including any interest earned thereon, on completed projects pursuant to this chapter, which projects have not been reduced to final costs, the district may apply for, and shall be granted, final apportionments for additional eligible facilities in a total amount not to exceed those project savings.

The project savings for which a district has applied pursuant to this section shall not be considered excess apportionments or unencumbered balances for the purposes of Sections 16100 and 16104.

In no event shall the grant of the project savings to the district pursuant to this section extend the repayment period of any prior apportionments for the purposes of canceling the interest and principal payable thereon pursuant to Section 16083.

SEC. 2. Section 16072.5 is added to the Education Code, to read:

16072.5. Whenever a school district has applied the proceeds of a sale of local bonds to a project pursuant to subdivision (c) of Section

17732, the Director of General Services shall include in the determination of the eligible bonded debt service of the district, the amount raised or to be raised for repayment of principal and interest on that portion of the bonded indebtedness of the district generating the proceeds.

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 state aid savings presently on deposit in the county treasuries of the state for school construction may be used by school districts for that purpose at the earliest possible time, and that school districts which have applied the proceeds of a sale of local bonds to lease-purchase projects may include the redemption and interest charges of the bonds in the computation of their eligible bonded debt service at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 821

An act to amend Section 7501 of, and to add Section 7509 to, the Government Code, relating to public pension and retirement systems.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 7501 of the Government Code is amended to read:

7501. It is the intent and purpose of the Legislature, in enacting this chapter, to safeguard the solvency of all public retirement systems and funds. The Legislature finds and declares that public agencies maintaining retirement systems can benefit from periodic and independent analysis of their financial condition. It is the purpose of Sections 7502, 7503, and 7504 to enable the State Controller to gather information to compare and evaluate the financial condition of such systems and to make such comparisons and evaluations.

SEC. 2. Section 7509 is added to the Government Code, to read:

7509. The restrictions upon rates of interest contained in Section 1 of Article XV of the State Constitution shall not apply to any loans made by, or forbearances of, any state or local public retirement system including but not limited to, any public retirement system authorized and regulated by the State Teachers' Retirement Law, the Public Employees' Retirement Law, the County Employees Retirement Law of 1937, any public retirement system administered

by the Teachers Retirement Board or Board of Administration of the Public Employees' Retirement System, or any public retirement system acting pursuant to the laws of this state or the laws of any local agency.

For the purposes of this section, local agency shall mean county, city, city and county, district, school district, or any public or municipal corporation, political subdivison, or other public agency of the state, or any instrumentality of one or more of any such agencies.

This section creates and authorizes any state or local retirement system as an exempt class of persons pursuant to Section 1 of Article XV of the State Constitution.

CHAPTER 822

An act to amend Section 22500 of, and to add Section 22500.5 to, the Vehicle Code, relating to transportation.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 22500 of the Vehicle Code is amended to read:

22500. No person shall stop, park, or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or official traffic control device, in any of the following places:

(a) Within an intersection except adjacent to curbs as may be permitted by local ordinance.

(b) On a crosswalk, except that a bus engaged as a common carrier or a taxicab may stop in an unmarked crosswalk to load or unload passengers when authorized by the legislative body of any city pursuant to ordinance.

(c) Between a safety zone and the adjacent right-hand curb or within the area between the zone and the curb as may be indicated by a sign or red paint on the curb, which sign or paint was erected or placed by local authorities pursuant to ordinance.

(d) Within 15 feet of the driveway entrance to any fire station. This paragraph shall not apply to any vehicle owned or operated by a fire department and clearly marked as a fire department vehicle.

(e) In front of a public or private driveway, except that a bus engaged as a common carrier, schoolbus, or a taxicab may stop to load or unload passengers when authorized by local authorities pursuant to ordinance.

In unincorporated territory, where the entrance of a private road or driveway is not delineated by an opening in a curb or by other

curb construction, so much of the surface of the ground as is paved, surfaced, or otherwise plainly marked by vehicle use as a private road or driveway entrance, shall constitute a driveway.

(f) On a sidewalk, except electric carts when authorized by local ordinance, as specified in Section 21114.5.

(g) Alongside or opposite any street or highway excavation or obstruction when such stopping, standing, or parking would obstruct traffic.

(h) On the roadway side of any vehicle stopped, parked, or standing at the curb or edge of a highway.

(i) Except as provided under Section 22500.5, alongside curb space authorized for the loading and unloading of passengers of a bus engaged as a common carrier in local transportation when indicated by a sign or red paint on the curb erected or painted by local authorities pursuant to ordinance.

(j) In a tube or tunnel, except vehicles of the authorities in charge, being used in the repair, maintenance, or inspection of the facility.

(k) Upon a bridge, except vehicles of the authorities in charge, being used in the repair, maintenance, or inspection of the facility, and except that a bus engaged as a common carrier in local transportation may stop to load or unload passengers upon a bridge where sidewalks are provided, when authorized by local authorities pursuant to ordinance, and except that local authorities pursuant to ordinance or the Department of Transportation pursuant to order, within their respective jurisdictions, may permit parking on bridges having sidewalks, and shoulders of sufficient width to permit parking without interfering with the normal movement of traffic on the roadway. Local authorities may by ordinance or resolution permit parking on such bridges on state highways in their respective jurisdictions if the ordinance or resolution is first approved in writing by the Department of Transportation. Parking shall not be permitted unless there are signs in place as may be necessary to indicate the provisions of local ordinances or the order of the Department of Transportation.

SEC. 2. Section 22500.5 is added to the Vehicle Code, to read:

22500.5. Upon agreement between a transit system operating buses engaged as common carriers in local transportation and a public school district, local authorities may, by ordinance, permit schoolbuses owned by, or operated under contract for, that public school district to stop for the loading or unloading of passengers alongside any or all curb spaces designated for the loading or unloading of passengers of the transit system buses.

SEC. 3. (a) For purposes of Section 41856 of the Education Code, the approved home-to-school transportation costs for, and state home-to-school transportation aid received by, the Redding Elementary School District for the 1981–82 school year shall be deemed to be ninety-two thousand dollars ($92,000), and apportionment to that school district for the 1982–83 fiscal year and each fiscal year thereafter shall be computed on that basis.

(b) Due to the unique circumstances concerning the availability of pupil transportation services in the Redding Elementary School District, it is necessary that funding be made available to the district, and the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 823

An act to amend Sections 2220, 2307, 2320, 2323, 2332 and 2335 of, and to repeal Sections 2156, 2157, 2158, 2159, 2165, 2231, 2280, 2281, 2328, 2334, 2387, and 2388 of, the Business and Professions Code, relating to the Medical Practice Act.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982]

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

SECTION 1. Section 2156 of the Business and Professions Code is repealed.

SEC. 2. Section 2157 of the Business and Professions Code is repealed.

SEC. 3. Section 2158 of the Business and Professions Code is repealed.

SEC. 4. Section 2159 of the Business and Professions Code is repealed.

SEC. 5. Section 2165 of the Business and Professions Code is repealed.

SEC. 5.3. Section 2220 of the Business and Professions Code is amended to read:

2220. Except as otherwise provided by law, the Division of Medical Quality may take action against all persons guilty of violating the provisions of this chapter. The division shall enforce and administer the provisions of this article as to physician and surgeon certificate holders, and the division shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from a division of the board that a physician and surgeon may be guilty of unprofessional conduct.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported of an unusually high number of judgments, settlements, or arbitration awards against a physician and surgeon.

SEC. 5.5. Section 2231 of the Business and Professions Code is repealed.

SEC. 6. Section 2280 of the Business and Professions Code is repealed.

SEC. 7. Section 2281 of the Business and Professions Code is repealed.

SEC. 8. Section 2307 of the Business and Professions Code is amended to read:

2307. A person whose certificate has been revoked or suspended or who has been placed on probation may petition the Division of Medical Quality for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than one year has elapsed from the effective date of the decision ordering such disciplinary action.

The petition shall state such fact as may be required by the division. The petition shall be accompanied by at least two verified recommendations from physicians and surgeons licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition may be heard by the division, or the division may assign the petition to a medical quality review committee for hearing by a panel composed of seven members specifically constituted for this purpose. The panel shall consist of four physicians, one nonphysician licentiate of a healing arts board, one public member, and one member who may be either a public member or a nonphysician licentiate of a healing arts board. For the purposes of such a hearing, five members of a panel shall constitute a quorum.

The division or a panel hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the division or panel finds necessary.

The division or panel reinstating a certificate or modifying a penalty may impose such terms and conditions as it deems necessary. To reinstate a revoked certificate requires the affirmative vote of at least five members of the division or of the panel hearing the petition, as the case may be. To otherwise reduce a penalty or modify probation requires the affirmative vote of at least four members of the division or of the panel hearing the petition, as the case may be. A decision by the division or a panel shall be final.

No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. The division may deny without a hearing or argument any petition filed pursuant

to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

SEC. 9. Section 2320 of the Business and Professions Code is amended to read:

2320. The Legislature finds and declares that the public health requires the establishment of procedures to assure the maintenance of high quality medical practice by holders of certificates under this chapter.

The Legislature intends by this article to establish a system of medical quality review committees under the jurisdiction of the Division of Medical Quality to review the quality of medical practice by physician and surgeon certificate holders and to undertake such remedial or disciplinary functions as are specified herein and appropriate for the protection of the public and the licensee.

SEC. 10. Section 2323 of the Business and Professions Code is amended to read:

2323. A medical quality review committee is hereby created for each of the districts established by Section 2322. Each committee shall be composed of persons appointed by the Governor from among residents of the district.

The medical quality review committees shall have the following composition:

(a) The first district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(b) The second district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(d) The fourth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(f) The sixth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be

nonphysician licentiates of a healing arts board.

(h) The eighth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(j) The 10th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(k) The 11th district shall be composed of 40 members, 24 of whom shall hold valid physician's and surgeon's certificates, eight of whom shall be public members, and eight of whom shall be nonphysician licentiates of a healing arts board.

(*l*) The 12th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(n) The 14th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

A medical quality review committee may, pursuant to regulations adopted by the division, establish panels of five committee members consisting of three physician members, one public member, and one member who is a nonphysician licentiate of a healing arts board for the purposes of hearing and deciding cases before a committee. If for any reason, a five member panel from one committee cannot be convened, members from another committee may be assigned to a panel for the duration of the hearing conducted by the panel. Three members shall constitute a quorum in order for a panel of a committee to conduct business. It shall require an affirmative vote of three members of a panel to decide any case, pass any measure, or make any recommendation. Where a medical quality review committee meets as a whole, a majority of the appointed membership of the committee shall constitute a quorum to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a committee constituting at least a quorum to decide any case, pass any motion, or make any recommendation.

A finding or decision by a panel established under this section shall constitute a finding or decision by a committee.

SEC. 11. Section 2328 of the Business and Professions Code is

repealed.

SEC. 11.5. Section 2332 of the Business and Professions Code is amended to read:

2332. Committees shall have the following authority and duties:

(a) To review the quality of medical care provided by physicians and surgeons.

(b) To act upon all matters assigned to it by the division and such other matters within the jurisdiction of a committee which it finds warrant action.

(c) To inspect general and special hospitals pursuant to Section 2226.

(d) Where grounds for disciplinary action are found by the Attorney General to exist after the completion of investigations under this section, to hold a hearing pursuant to Section 2230. Hearings shall be conducted by the division, a committee or a panel of a committee, or an administrative law judge sitting alone.

(e) At the completion of a hearing, upon a finding of unprofessional conduct, to take appropriate disciplinary or remedial action pursuant to Sections 2227, 2228, 2229, and 2335.

(f) To convene a panel to hear a petition for reinstatement or modification of penalty as assigned by the division pursuant to Section 2307.

SEC. 12. Section 2334 of the Business and Professions Code is repealed.

SEC. 13. Section 2335 of the Business and Professions Code is amended to read:

2335. (a) Within 30 days of the conclusion of any hearing which is conducted by a committee or panel thereof, the administrative law judge and the committee or panel shall render its decision in the matter.

(b) A decision by a committee or a panel thereof dismissing the accusation or calling for the discipline of a physician and surgeon, or restricting or limiting the extent, scope, or type of practice of the physician and surgeon for a period of one year or less, or the suspension from practice of a physician and surgeon for 30 days or less, shall be a final decision, unless the committee or panel orders reconsideration pursuant to Section 2336. A final decision of a committee or panel shall constitute the decision of the division in the matter.

(c) A decision by a committee or a panel thereof calling for the discipline of a physician and surgeon, or restricting or limiting the extent, scope, or type of practice of the physician and surgeon for a period exceeding one year, the suspension from practice of a physician and surgeon in excess of 30 days, or the revocation of the physician's and surgeon's certificate, shall constitute a proposed decision to the division. The proposed decision shall be subject to the same procedure as a proposed decision of an administrative law judge under subdivisions (b) and (c) of Section 11517 of the Government Code. No such penalties shall be carried out except

upon the order of the division. The division shall act upon such proposed decisions within 100 days of receiving such decisions from a committee or panel.

(d) The division shall review all decisions of committees and panels. The division shall comment on the appropriateness of such decisions and shall promulgate uniform disciplinary guidelines for particular violations.

SEC. 14. Section 2387 of the Business and Professions Code is repealed.

SEC. 15. Section 2388 of the Business and Professions Code is repealed.

CHAPTER 824

An act to amend Section 653h of the Penal Code, relating to recordings.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 653h of the Penal Code is amended to read:

653h. (a) Every person is guilty of a public offense punishable by imprisonment in the state prison for a term not to exceed one year and one day, or by imprisonment in the county jail not to exceed one year, or by a fine not to exceed twenty-five thousand dollars ($25,000), or by both such imprisonment and fine, who:

(1) Knowingly and willfully transfers or causes to be transferred any sounds that have been recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, such article on which such sounds are so transferred, without the consent of the owner.

(2) Transports for monetary or like consideration within this state or causes to be transported within this state any such article with the knowledge that the sounds thereon have been so transferred without the consent of the owner.

(b) Any person who has been convicted of a violation of subdivision (a) shall, upon a subsequent conviction, be imprisoned in state prison, or by a fine not exceeding fifty thousand dollars ($50,000), or by both such fine and imprisonment.

(c) Every person who sells or causes to be sold any such article with knowledge that the sounds thereon have been so transferred without the consent of the owner is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

(d) As used in this section, "person" means any individual, partnership, partnership's member or employee, corporation, association or corporation or association employee, officer or director; "owner" means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other article used for reproducing recorded sounds on phonograph records, discs, tapes, films or other articles on which sound is or can be recorded, and from which the transferred recorded sounds are directly or indirectly derived; and "fixation of sounds" means the master recording from which copies can be made of the series of sounds constituting the sound recording.

(e) This section shall neither enlarge nor diminish the right of parties in private litigation.

(f) This section does not apply to any person engaged in radio or television broadcasting who transfers, or causes to be transferred, any such sounds (other than from the sound track of a motion picture) intended for, or in connection with broadcast transmission or related uses, or for archival purposes.

(g) This section does not apply to any not-for-profit educational institution or any federal or state governmental entity, if the institution or entity has as a primary purpose the advancement of the public's knowledge and the dissemination of information regarding America's musical cultural heritage, provided that this purpose is clearly set forth in the institution's or entity's charter, by-laws, certificate of incorporation, or similar document, and the institution or entity has, prior to the transfer, made a good faith effort to identify and locate the owner or owners of the sound recordings to be transferred and, provided that the owner or owners could not be and have not been located. Nothing in this section shall be construed to relieve an institution or entity of its contractual or other obiligation to compensate the owners of sound recordings to be transferred. In order to continue the exemption permitted by this subdivision, the institution or entity shall make continuing efforts to locate such owners and shall make an annual public notice of the fact of the transfers in newspapers of general circulation serving the jurisdictions where the owners were incorporated or doing business at the time of initial affixations. The institution or entity shall keep on file a record of the efforts made to locate such owners for inspection by appropriate governmental agencies.

(h) This section applies only to such articles that were initially fixed prior to February 15, 1972.

CHAPTER 825

An act to amend Section 22952 of, and to add Sections 22957 and 22958 to, the Government Code, relating to state employees' dental plans.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 22952 of the Government Code is amended to read:

22952. The State of California, through the Department of Personnel Administration, and the Trustees of the California State University and the Regents of the University of California, directly or through the Department of Personnel Administration, may contract, upon negotiations with employee organizations, with carriers for dental care plans for employees and annuitants, provided the carriers have operated successfully in the area of dental care benefits for a reasonable period prior to contracting for such plans, or have a contract to provide benefit plans under Section 22790 of the Government Code, as amended by Chapter 403 of the Statutes of 1979.

No contract for any dental care plan may be entered into unless funds for a dental care plan contract are appropriated by the Legislature in a subsequently enacted statute.

SEC. 2. Section 22957 is added to the Government Code, to read:

22957. (a) The state, through the Department of Personnel Administration or the Board of Trustees of the California State University, may contract, upon negotiations with employee organizations, with health care service plans licensed and authorized to provide dental plan contracts, under the Knox-Keene Health Care Service Plan Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, which have a contract to provide benefit plans under Section 22790 or a federally qualified health maintenance organization licensed under Chapter 11 (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code which has a contract to provide benefit plans under Section 22790, for dental care plans comparable to those contracted for pursuant to Section 22952. The Department of Personnel Administration or the Board of Trustees of the California State University shall determine the state's contribution for these plans in the same manner as it determines contributions for dental plans pursuant to Section 22952. A state employee or annuitant may enroll in a dental plan pursuant to this section only if he or she is enrolled in a health care plan provided by the same carrier, provided that nothing in this section shall be construed to require a state employee or annuitant who is a member of a health maintenance organization

to enroll in a dental plan provided by the health maintenance organization. No state employee or annuitant may enroll in a dental plan pursuant to this section prior to the next open enrollment period as determined by the Department of Personnel Administration or the Board of Trustees of the California State University or prior to August 1, 1983, whichever occurs first.

SEC. 3. Section 22958 is added to the Government Code, to read:

22958. The Department of Personnel Administration shall administer all dental plans provided by Sections 22952 and 22957 for civil service employees and annuitants. The Board of Trustees of the California State University shall administer dental care plans provided by Sections 22952 and 22957 for employees and annuitants of the California State University.

CHAPTER 826

An act to add Chapter 25 (commencing with Section 7551) to Division 7 of Title 1 of the Government Code, relating to gold medallions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Chapter 25 (commencing with Section 7551) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 25. COMMEMORATIVE "CALIFORNIA GOLD" MEDALLIONS

7551. The Department of General Services shall cause to be designed a series of commemorative gold medallions minted of California-produced gold bullion in not less than 1 troy ounce, .5 troy ounce, and .25 troy ounce sizes of .999 fine gold.

7552. Each medallion shall bear:

(a) On one side, the Great Seal of the State of California.

(b) On the reverse side; (1) across the top, the term "California Gold;" (2) in the center, the State Bear (side view); (3) on the lower middle right side, the date; (4) on the lower middle left side, the mint mark of the certified registered mint with which the Department of General Services has contracted; (5) on the bottom left side, the size of the medallion; (6) along the bottom right side, the term ".999 fine;" and (7) along the entire outer edge, thirty-one (31) small stars.

The medallion shall have reeded or serrated edges with not less than 10 per quarter inch.

The medallions shall not be in similitude in design or size, to include diameter and thickness, to any United States or foreign coin.

7553. Upon the showing of sufficient interest by California gold producers, the department shall contract with a registered, certified mint for the minting of gold medallions in an amount and in such sizes as deemed appropriate. California gold producers shall provide all gold bullion necessary for minting and shall deliver it to the mint for processing. They shall pay in advance to the department a fee sufficient to cover all minting and handling costs; royalty fees for the use of the seal; and reimbursement costs to the department for designing the medallions.

7554. The Department of General Services shall, for the use of the Great Seal of the State of California, charge the following royalties:

(a) For each medallion in the 1 troy ounce size, four dollars ($4).

(b) For each medallion in the .5 troy ounce size, two dollars ($2).

(c) For each medallion in the .25 troy ounce size, one dollar ($1).

7555. After minting, the medallions shall be returned to the producers who, notwithstanding Section 402, shall have sole responsibility for distribution, marketing, and sales.

7556. Only registered, certified mints which have contracted with the department may produce the medallions, as ordered pursuant to the provisions of this chapter. Any other production of the medallions is unlawful and punishable as a misdemeanor.

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, at the earliest possible time, the additional needed state revenues which this act will generate, it is necessary that this act take effect immediately.

CHAPTER 827

An act to amend Sections 35002, 35100, 35103, 35104, 35106, 35106.5, 35112, 35114, 35115, 35116, 35117, 35551, as added by Section 2 of Chapter 467 of the Statutes of 1981, 35554, 36605, 35780.5, 35788, and 35790 of, and to repeal Section 35551 as amended by Section 1 of Chapter 467 of the Statutes of 1981 of, the Vehicle Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 35002 of the Vehicle Code is amended to read:

35002. The provisions of this division are inapplicable in the case of any authorized emergency vehicle owned or operated by a governmental agency while being used in responding to and returning from emergency fire calls in combating and suppressing fire, and while being moved from place to place in anticipation of such emergency use. Any governmental agency operating such an emergency vehicle shall be liable to the governmental agency having custody of any state or county highway for any damage to the highway or any highway structure caused by the operation of any emergency vehicle of a size or weight of vehicle or load exceeding that specified in this division. The cost of repair of the damage shall be a proper charge against the support fund of the governmental agency operating an oversize or overweight vehicle.

SEC. 2. Section 35100 of the Vehicle Code is amended to read:

35100. (a) The total outside width of any vehicle or the load thereon shall not exceed 96 inches, except as otherwise provided in this chapter.

(b) Notwithstanding subdivision (a), the total outside width of any load on a vehicle may exceed a width of 96 inches but shall not exceed a width of 100 inches, except as otherwise provided in this chapter.

SEC. 3. Section 35103 of the Vehicle Code is amended to read:

35103. When any vehicle carries a load composed of plywood, particle board, hardboard, gypsum board, or similar types of wallboard, or any combination thereof, stacked side by side, the total outside width of that portion of the load consisting of those items set forth in this section shall not exceed 100 inches.

SEC. 4. Section 35104 of the Vehicle Code is amended to read:

35104. The limitations as to width do not apply to the following vehicles except that these vehicles shall not exceed a width of 120 inches:

(a) Special mobile equipment.

(b) Special construction or highway maintenance equipment.

SEC. 5. Section 35106 of the Vehicle Code is amended to read:

35106. (a) Motor coaches or buses may have a maximum width not exceeding 102 inches.

(b) Notwithstanding subdivision (a), motor coaches or buses operated under the jurisdiction of the Public Utilities Commission in urban or suburban service may have a maximum outside width not exceeding 104 inches, when approved by order of the Public Utilities Commission for use on routes designated by it. Motor coaches or buses operated by common carriers of passengers for hire in urban or suburban service and not under the jurisdiction of the Public Utilities Commission may have a maximum outside width not exceeding 104 inches.

SEC. 6. Section 35106.5 of the Vehicle Code is amended to read:

35106.5. (a) Aircraft hi-lift catering or cabin cleaning trucks may have a maximum outside width not exceeding 100 inches.

(b) As used in subdivision (a), an "aircraft hi-lift catering or cabin cleaning truck" is a vehicle designed and intended by the manufacturer to transport either cleaning supplies, equipment, and personnel, or food and associated food handling equipment, between aircraft parked at terminal buildings, hangars, or alternate or diversion airports, and supply rooms, commissary stores, flight kitchens, or caterers located on or off the airport, or located both on and off the airport. Such vehicle consists of a van body mounted on a truck chassis with a cab. The van body may be mounted on a lift mechanism.

(c) This section shall be applicable within a distance of 50 miles from the boundaries of any airport in California.

SEC. 7. Section 35112 of the Vehicle Code is amended to read:

35112. Notwithstanding the limitations of this chapter, and in addition to the provisions of this chapter, drip rails, awning rails, drip caps, rub rails, grab rails, electrical receptacles, bumper guards, window louvers, window frames, exhaust fans, and similar necessary appendages may extend two inches on each side of the main portion of the body of a trailer coach or a camp trailer, if the maximum width of body and any or all of such appendages does not exceed 100 inches. Enactment of the foregoing provisions shall not be construed as a change in the existing law, but rather as declaratory thereof under the provisions of this chapter.

SEC. 8. Section 35114 of the Vehicle Code is amended to read:

35114. Notwithstanding Section 35100, the total outside width of the load of any vehicle shall not exceed 100 inches when the load consists of beehives.

SEC. 9. Section 35115 of the Vehicle Code is amended to read:

35115. Notwithstanding the limitations of this chapter, and in addition to the provisions of this chapter, lifting eyes, lifting cables, cable hooks, door latches, or hinged unloading doors on portable beds not permanently attached to the vehicle and solely used to carry agricultural products, agricultural minerals, or fertilizers may extend two inches on each side of the main portion of the body of a vehicle if the maximum width of body and any or all of such appendages does not exceed 100 inches.

SEC. 10. Section 35116 of the Vehicle Code is amended to read:

35116. Livestock loading chutes, supporting hangers, and steps and handholds may extend two inches on each side of any vehicle used to transport livestock, except that the maximum width of body and livestock loading chutes, supporting hangers, and steps and handholds shall not exceed 100 inches.

SEC. 11. Section 35117 of the Vehicle Code is amended to read:

35117. Safety sheathing or guards, chains, and chain sprockets used to drive the unloading mechanism of a vehicle, may extend two inches on each side of the vehicle, except that the maximum width

of body and chains, chain sprockets, and safety sheathing or guards shall not exceed 100 inches.

SEC. 12. Section 35551 of the Vehicle Code, as amended by Section 1 of Chapter 467 of the Statutes of 1981, is repealed.

SEC. 13. Section 35551 of the Vehicle Code, as added by Section 2 of Chapter 467 of the Statutes of 1981, is amended to read:

35551. (a) Except as otherwise provided in this section or Section 35551.5, the total gross weight in pounds imposed on the highway by any group of two or more consecutive axles shall not exceed that given for the respective distance in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	*2 axles*	*3 axles*	*4 axles*	*5 axles*	*6 axles*
4	34,000	34,000	34,000	34,000	34,000
5	34,000	34,000	34,000	34,000	34,000
6	34,000	34,000	34,000	34,000	34,000
7	34,000	34,000	34,000	34,000	34,000
8	34,000	34,000	34,000	34,000	34,000
9	39,000	42,500	42,500	42,500	42,500
10	40,000	43,500	43,500	43,500	43,500
11	40,000	44,000	44,000	44,000	44,000
12	40,000	45,000	50,000	50,000	50,000
13	40,000	45,500	50,500	50,500	50,500
14	40,000	46,500	51,500	51,500	51,500
15	40,000	47,000	52,000	52,000	52,000
16	40,000	48,000	52,500	52,500	52,500
17	40,000	48,500	53,500	53,500	53,500
18	40,000	49,500	54,000	54,000	54,000
19	40,000	50,000	54,500	54,500	54,500
20	40,000	51,000	55,500	55,500	55,500
21	40,000	51,500	56,000	56,000	56,000
22	40,000	52,500	56,500	56,500	56,500
23	40,000	53,000	57,500	57,500	57,500
24	40,000	54,000	58,000	58,000	58,000
25	40,000	54,500	58,500	58,500	58,500
26	40,000	55,500	59,500	59,500	59,500
27	40,000	56,000	60,000	60,000	60,000
28	40,000	57,000	60,500	60,500	60,500
29	40,000	57,500	61,500	61,500	61,500
30	40,000	58,500	62,000	62,000	62,000
31	40,000	59,000	62,500	62,500	62,500
32	40,000	60,000	63,500	63,500	63,500
33	40,000	60,000	64,000	64,000	64,000
34	40,000	60,000	64,500	64,500	64,500
35	40,000	60,000	65,500	65,500	65,500
36	40,000	60,000	66,000	66,000	66,000

37	40,000	60,000	66,500	66,500	66,500
38	40,000	60,000	67,500	67,500	67,500
39	40,000	60,000	68,000	68,000	68,000
40	40,000	60,000	68,500	70,000	70,000
41	40,000	60,000	69,500	72,000	72,000
42	40,000	60,000	70,000	73,280	73,280
43	40,000	60,000	70,500	73,280	73,280
44	40,000	60,000	71,500	73,280	73,280
45	40,000	60,000	72,000	76,000	80,000
46	40,000	60,000	72,500	76,500	80,000
47	40,000	60,000	73,500	77,500	80,000
48	40,000	60,000	74,000	78,000	80,000
49	40,000	60,000	74,500	78,500	80,000
50	40,000	60,000	75,500	79,000	80,000
51	40,000	60,000	76,000	80,000	80,000
52	40,000	60,000	76,500	80,000	80,000
53	40,000	60,000	77,500	80,000	80,000
54	40,000	60,000	78,000	80,000	80,000
55	40,000	60,000	78,500	80,000	80,000
56	40,000	60,000	79,500	80,000	80,000
57	40,000	60,000	80,000	80,000	80,000
58	40,000	60,000	80,000	80,000	80,000
59	40,000	60,000	80,000	80,000	80,000
60	40,000	60,000	80,000	80,000	80,000

(b) In addition to the weights specified in subdivision (a), two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more. The gross weight of each set of tandem axles shall not exceed 34,000 pounds and the gross weight of the two consecutive sets of tandem axles shall not exceed 68,000 pounds.

(c) The distance between axles shall be measured to the nearest whole foot. When a fraction is exactly six inches, the next larger whole foot shall be used.

(d) Nothing contained in this section shall affect the right to prohibit the use of any highway or any bridge or other structure thereon in the manner and to the extent specified in Article 4 (commencing with Section 35700) and Article 5 (commencing with Section 35750) of this chapter.

(e) The gross weight limits expressed by this section and Section 35550 shall include all enforcement tolerances.

SEC. 14. Section 35554 of the Vehicle Code is amended to read:

35554. Notwithstanding Section 35550, the gross weight on any one axle of a bus shall not exceed 20,500 pounds.

SEC. 15. Section 35780.5 of the Vehicle Code is amended to read:

35780.5. The Department of Transportation may, upon application in writing from a company in the business of making or transporting trusses, as defined in Section 657, issue a special permit

in writing authorizing the applicant to operate or move a vehicle carrying a load exceeding the maximum width specified by this code when the vehicle is actually being used to transport trusses upon a highway under the jurisdiction of the department, if the load does not exceed 12 feet in width and the company complies with the department's regulations governing the transportation of extralegal loads.

SEC. 16. Section 35788 of the Vehicle Code is amended to read:

35788. Upon application to the Director of Transportation for permission to use and operate on highways private or contract vehicles for the purpose of hauling loads which weigh in excess of the maximum load weight limits, the director may enter into an agreement with the applicant, permitting such overloads, specifying protective restrictions and providing for the payment of a financial contribution for the issuance of such permission, except that the overload shall not exceed 25 percent of the maximum load weight limitation, in pounds, set forth in this code. The agreement shall not permit the applicant to transport such excess weight loads on highways for distances exceeding 75 miles. All contributions received by the Department of Transportation shall be used for the construction, improvement, or maintenance of the highway designated in the permission to operate overweight loads. Sections 188 and 188.8 of the Streets and Highways Code does not apply to contributions received pursuant to this section, and any expenditures of the contributions by the department shall not be credited against amounts required to be expended pursuant to Sections 188 and 188.8 of the Streets and Highways Code.

This section does not apply to highways which are a part of the National System of Interstate and Defense Highways.

SEC. 17. Section 35790 of the Vehicle Code, as amended by Chapter 40 of the Statutes of 1982, is amended to read:

35790. (a) The Department of Transportation or local authorities with respect to highways under their respective jurisdictions may, upon application in writing and if good cause appears, issue a special or annual permit in writing authorizing the applicant to move any manufactured home in excess of the maximum width but not exceeding 14 feet in total width, exclusive of lights and devices provided for in Sections 35109, 35110, and 35112, upon any highway under the jurisdiction of the party granting the permit.

(b) A public agency, in the exercise of its discretion in granting permits for the movement of overwidth manufactured homes, and in considering the individual circumstances of each case, may use merchandising or relocation of residence as a basis for movement for good cause.

(c) (1) The application for a special permit shall specifically describe the manufactured home to be moved and the particular highways over which the permit to operate is requested.

(2) The application for an annual permit shall specifically

describe the power unit to be used to tow the overwidth manufactured homes and the particular highways over which the permit to operate is requested. The annual permit shall be subject to all of the conditions of this section and any additional conditions imposed by the public agency.

(d) The Department of Transportation or local authority may establish seasonal or other time limitations within which a manufactured home may be moved on the highways indicated, and may require an undertaking or other security as it deems necessary to protect the highways and bridges from injury or to provide indemnity for any injury resulting from the operation.

(e) Permits for the movement of manufactured homes under this section shall not be issued except to transporters or licensed manufacturers and dealers and only under the following conditions:

(1) The manufactured home for which the permit is issued shall comply with Sections 35550 and 35551.

(2) In the case of a permit issued on an individual or repetitive trip basis, the applicant has first received the approval of a city or county if the trip will include movement on streets or highways under the jurisdiction of the city or county. The application for such a permit shall indicate the complete route of the proposed move and shall specify all cities and counties which have approved the move. This paragraph shall not be construed to require the Department of Transportation to verify the information provided by an applicant with respect to movement on streets or highways under local jurisdiction.

(3) It is a violation of any permit, which is issued by the Department of Transportation and which authorizes a move only on a state highway, for that move to be extended to a street or highway under the jurisdiction of a city or county unless the move has been approved by the city or county.

(f) The Department of Transportation, in cooperation with the Department of the California Highway Patrol, or the local authority may establish additional reasonable permit regulations as they may deem necessary in the interest of public safety, which regulations shall be consistent with this section.

(g) Every permit, the consent form as required by Section 18082 of the Health and Safety Code, and a copy of the tax clearance certificate, certificate of origin, or dealer's notice of transfer, when such certificate or notice is required to be issued, shall be carried in the manufactured home or power unit to which it refers and shall be open to inspection by any peace officer or traffic officer, any authorized agent of the Department of Transportation, or any other officer or employee charged with the care and protection of the highways.

(h) It is unlawful for any person to violate any of the terms or conditions of any permit.

SEC. 18. Section 36605 of the Vehicle Code is amended to read:

36605. The limitations as to width, as set forth in Chapter 2

(commencing with Section 35100) of Division 15, do not apply to any trailer or semitrailer, including lift-carriers and tip-bed trailers, used exclusively for the transportation of implements of husbandry or tools used exclusively for the production or harvesting of agricultural products by farmers or implement dealers, except as follows:

(1) With respect to any trailer or semitrailer transporting a grain-harvesting combine, such vehicle shall not exceed a width of 144 inches.

(2) With respect to any other vehicle described in this section, such vehicle, or the load thereon when such load consists of tools, shall not exceed a width of 120 inches.

SEC. 19. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify the weight and size limitations of vehicles to prevent the loss of federal funds for highway purposes at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 828

An act to amend Section 7.9 of, and to add Section 19991.10 to, the Government Code, relating to state employees.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 7.9 of the Government Code is amended to read:

7.9. Notwithstanding any provision of law to the contrary, the Controller or the Treasurer may designate any deputy of his or her office to act in his or her place and stead on any state board, commission, committee or governing board of a state agency with respect to the exercise of statutory powers and duties of any of those bodies. The deputy, while sitting on a board, commission, committee or governing board of a state agency may exercise the same powers that the Controller or the Treasurer may exercise as if he or she were personally present. The Controller or the Treasurer so designating a deputy shall be responsible for the acts of the deputy acting under the designation in the same manner and to the same extent that the Controller or the Treasurer is responsible for the acts of the deputy performing his or her official duties as deputy to the Controller or the Treasurer.

At the request of the Controller or the Treasurer, two employees of each officer, who hold permanent civil service status and have been designated deputies under this section, shall be classified and

compensated as career executives at Category Level IV or Category Level V.

SEC. 2. Section 19991.10 is added to the Government Code, to read:

19991.10. Where there exists no statutory authority to grant a paid leave of absence, no paid leave of absence shall exceed five working days without prior approval of the department. This section shall not be construed to provide or create any classification of paid leave of absence.

For the purposes of this section, a paid leave of absence does not include a paid leave authorized by Sections 1230.1, 3518.5, 3522.7, 19252, 19253.5, 19775, 19775.1, 19848, 19853, 19854, 19858.1, 19859, 19863, 19871, 19886.1, 19991.3, and 19991.7 of this code or Section 4800 of the Labor Code.

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 829

An act to amend Sections 843 and 848 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982]

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

SECTION 1. Section 843 of the Unemployment Insurance Code is amended to read:

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

January 1, 1978, and may be terminated as of January 1, 1978, or as of January 1, 1980, or any later January 1, pursuant to this section. Upon the termination of any election under this section, the director shall determine the positive balance, if any, in the Local Public Entity Employees Fund attributable to the account of the local public entity terminating such election, following the expiration of the last week for which benefits could be paid based upon wages paid by such local public entity. Not later than 180 days after the last week for which benefits could be paid based upon wages paid by the local public entity terminating an election under this section, the director shall refund from the Local Public Entity Employees Fund to the local public entity any remaining positive balance after all benefits liability of such local public entity has been charged to such local public entity's account. The local public entity shall be and remain liable to the Unemployment Fund for all benefits paid based upon wages paid by such local public entity during the period of an election under this section. The local public entity shall also be liable to repay the Local Public Entity Employees Fund for any negative balance in the local public entity's account at the time of termination of the election.

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

Any local public entity terminating its election under this article is not eligible to file a subsequent election under this article unless the entity repays and deposits in the Local Public Entity Employees Fund any negative balance in the entity's account at the time of termination, together with any interest or penalties due under this section.

SEC. 2. Section 848 of the Unemployment Insurance Code is amended to read:

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

(b) No payments shall be required from any local public entity

under this section prior to the fiscal year 1978–79. The director shall, not later than January 31st preceding each fiscal year commencing with the 1981–82 fiscal year, determine and notify each local public entity of the tax rate to apply for such fiscal year.

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

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

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

(2) If the local public entity has a positive balance of reserve in its account as of the close of the second next preceding fiscal year in excess of one and one-half times the average annual benefit charges for the three fiscal years ending with such second next preceding fiscal year or five hundred dollars ($500), whichever is greater, two-tenths of 1 percent shall be subtracted from the benefit cost ratio, but the tax rate shall not be less than zero.

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

(e) If the administrator finds that the ability of the Local Public Entity Employees Fund to meet its estimated obligations promptly when due will become endangered, he or she shall from time to time increase any contribution rate otherwise provided by this section to a level estimated to be needed to protect the solvency of the fund and shall notify all local public entities participating in the fund of any increased contribution rate under this authority.

CHAPTER 830

An act to amend Sections 1652, 1655, and 4453.6 of the Vehicle Code, relating to the Department of Motor Vehicles.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982]

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

SECTION 1. Section 1652 of the Vehicle Code is amended to read:

1652. (a) The department shall prescribe and provide suitable forms of applications, certificates of ownership, registration cards, drivers' licenses, and all other forms requisite or deemed necessary for the purposes of this code and shall prepay all transportation charges thereon.

(b) The department may require that any application or document filed with the department be signed and submitted under penalty of perjury.

SEC. 2. Section 1655 of the Vehicle Code is amended to read:

1655. (a) The director, a deputy director, the chief and assistant chief of the Division of Compliance of the department, and the investigators of the department shall have the powers of peace officers for the purpose of enforcing those provisions of law now or hereafter committed to the administration of the department or enforcing the law on premises occupied by the department.

(b) Any person designated in subdivision (a) may inspect any vehicle of a type required to be registered under this code, or any component part thereof, in any garage, repair shop, parking lot, used car lot, automobile dismantler's lot, steel mill, scrap metal processing facility, or other establishment engaged in the business of selling, repairing, or dismantling vehicles, or reducing vehicles or the integral parts thereof to their component materials for the purpose of investigating the title and registration of the vehicle, inspecting wrecked or dismantled vehicles, or locating stolen vehicles.

SEC. 3. Section 4453.6 of the Vehicle Code is amended to read:

4453.6. On request of any member of the California Highway Patrol, any regularly employed and salaried police officer or deputy sheriff, or any employee or officer of the department specified in Section 1655, who is conducting an investigation of a public offense, the lessor of a vehicle shall furnish the name and address of the lessee of a vehicle if that information does not appear on the registration card.

CHAPTER 831

An act relating to public programs.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) County governments are finding it increasingly difficult to absorb the high cost of large numbers of state-mandated programs.

(b) State and county government financing has undergone major changes since 1978. Articles XIII and XIII B of the State Constitution and the effects of state mandates upon local governments have altered the fiscal landscape of government in California.

(c) Rapid inflation in health care costs has further increased county costs, which are only partially reimbursed by the state. In addition, many counties are required to expend increasing amounts of local revenues for jails, law enforcement, and criminal justice programs.

(d) The uncertain future of federal funding for county health and welfare programs, coupled with proposed cuts in federal Medi-Cal funding, may force counties to absorb additional costs to maintain health and human service programs.

SEC. 2. It is the intent of the Legislature that administrative, service, and funding responsibilities be revised and distributed among state and county agencies in order to:

(a) Make the financing of human service programs the responsibility of the level of government that is best able to support them.

(b) Locate the authority to make decisions about the level and type of services to be offered close to the people being served.

(c) Eliminate costly, duplicative layers of program administration.

(d) Reduce overhead costs associated with unnecessary state requirements.

SEC. 3. In order to reduce the overhead costs of dual administration and to fix the responsibility for funding and managing human service programs at the most appropriate level of government, it is the intent of the Legislature that the governance of certain programs be either the responsibility of the state or the counties unless as a result of the study required by this act, other means of governance are recommended. For purposes of this act, the term "governance" consists of the following five elements:

(a) The authority to define and promulgate program standards.

(b) The authority to establish eligibility criteria.

(c) The authority to evaluate and audit programs.

(d) The authority to approve budgets and allocate funds.

(e) The authority to establish tax rate and fees.

SEC. 4. The purpose of this act is to initiate actions to determine the appropriate location of responsibility, for each of the five elements of governance enumerated in Section 3, for certain human service programs.

The Legislature recognizes that thorough study and public deliberations will be required to develop detailed statutory and administrative changes to accomplish any transfers of governance responsibilities, and to assure that the state and county administrative requirements will be streamlined while persons are not denied vital services. It is the intent of the Legislature that these deliberations be completed in time to determine an appropriate realignment of governance responsibilities for fiscal year 1984–85.

SEC. 5. The Director of the Assembly Office of Research shall perform and coordinate the following activities:

(a) Establish a project team with staff assigned to develop recommendations for governance of each of the programs enumerated in Section 7.

(b) Establish a schedule of regular meetings with staff and appropriate committees of the County Supervisors Association of California.

(c) Inform and work with the following legislative committees:

(1) Assembly Committee on Aging.

(2) Assembly Committee on Health and the Assembly Subcommittee on Mental Health and Developmental Disabilities.

(3) Assembly Committee on Human Services.

(4) Assembly Committee on Local Government.

(5) Assembly Select Committee on County Government.

(6) Assembly Committee on Ways and Means (Subcommittee No. 1—Health and Welfare).

(7) Senate Committee on Health and Welfare.

(8) Senate Committee on Local Government.

(9) Senate Select Committee on Children and Youth.

(10) Senate Committee on Finance (Subcommittee No. 3—Health and Welfare).

(11) Senate Office of Research.

(d) Coordinate the collection and analysis of information.

(e) Hold meetings with, and solicit comments from, the following agencies and organizations:

(1) State Department of Aging.

(2) State Department of Alcohol and Drug Programs.

(3) State Department of Health Services.

(4) State Department of Mental Health.

(5) State Department of Social Services.

(6) State Commission on Aging.

(7) County Administrative Officers Association of California.

(8) Conference of Local Mental Health Directors.

(9) Conference of Local Health Officers.

(10) California Welfare Directors Association.

(11) County Alcoholism Program Directors.
(12) County Drug Abuse Program Coordinators.
(13) State Mental Health Advisory Board.
(14) Health and Welfare Agency.
(15) Such private consumer and provider organizations as may express interest in one or more of the programs enumerated in Section 7.

(f) Provide the Legislature with any recommendations that might be available by February 1, 1983, for legislative and administrative action to implement the transfers of fundings responsibility, taking into account the factors enumerated in Sections 6 and 7.

The State Department of Finance and the Legislative Analyst's office shall provide such assistance and information as may be required by the project team designated by the Assembly Office of Research.

SEC. 6. The Assembly Office of Research shall prepare recommendations for legislative and administrative action to establish responsibility for the elements of program governance affecting program standards, eligibility, and regulation, as defined in subdivisions (a), (b), (c), and (d) of Section 3.

Recommendations shall include:

(a) Changes required in state law to conform to changes in federal law (including block grants) that affect programs listed in Section 7.

(b) Proposals for modifying or repealing state requirements for administering programs for which recommendations are submitted to transfer governance to the counties, including, but not limited to:
(1) Planning requirements.
(2) Advisory bodies.
(3) Evaluation requirements.
(4) Requirements for data collection, recordkeeping and reports to state agencies.

(c) Recommendations regarding appropriate state and county responsibility for program administration and supervision.

(d) Estimates of state and county cost savings to be realized as a result of recommendations developed pursuant to subdivisions (b) and (c), and recommendations for budget actions to achieve these cost savings.

(e) An analysis of the advantages and disadvantages of uniform statewide eligibility criteria and program standards, and specific recommendations for the eligibility criteria and program standards for programs for which responsibility is to be transferred to the counties.

(f) An analysis of current eligibility requirements and grant levels provided by the counties pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code and an analysis of the impact of court decisions affecting the eligibility requirements and grant levels.

(g) Proposals for the governance of medical assistance provided to indigent adults pursuant to Part 5 (commencing with Section

17000) of Division 9 of the Welfare and Institutions Code, consistent with methods that may be adopted by the Legislature for funding services for the medically indigent pursuant to Section 14052 of the Welfare and Institutions Code.

SEC. 7. The final report required pursuant to subdivision (f) of Section 5 shall also contain an analysis of the full fiscal impact, on the state and on each county, of transfers of financial responsibility, as defined in subdivision (d) of Section 3 including:

(a) An analysis of the fiscal impact of state assumption of responsibility for funding the nonfederal share of the following programs which have been proposed by representatives of the County Supervisors Association of California:

(1) Administration of the Aid to Families with Dependent Children program, provided pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, except for that portion used to administer aid to children placed in foster care.

(2) Assistance payments provided by the Aid to Families with Dependent Children program under the family group and unemployed parent components pursuant to subdivision (a) and the first and second paragraphs of subdivision (f) of Section 11450 of the Welfare and Institutions Code.

(3) Administration of the Food Stamp Program pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code.

(4) Aid and medical assistance granted to indigent persons pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(5) In-home supportive services provided pursuant to Article 7 (commencing with Section 12300) of Part 3 of Division 9 of the Welfare and Institutions Code.

(6) Protective services for adults provided pursuant to Article 6 (commencing with Section 12250) of Part 3 of Division 9 of the Welfare and Institutions Code.

(7) In-home supportive services for adults provided pursuant to Article 6 (commencing with Section 12300) of Part 3 of Division 9 of the Welfare and Institutions Code, and out-of-home services provided pursuant to Chapter 6.5 (commencing with Section 13900) of Part 3 of Division 9 of the Welfare and Institutions Code.

(8) Separate administrative units pursuant to Section 11300 of the Welfare and Institutions Code and Section 402 (a) (19) (G) of the Social Security Act.

(9) Municipal and superior courts.

(b) In order to offset the increased state costs of state assumption of programs proposed by the County Supervisors Association of California, the final report shall also include an analysis of the revenue shifts proposed by the County Supervisors Association and an analysis of the fiscal impact of changing the state-county funding ratios or of total county assumption of responsibility for funding the

nonfederal share of the following programs, effective July 1, 1984:

(1) Community care licensing required by Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

(2) Community mental health services provided pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code, but excluding the treatment of persons committed judicially pursuant to Part 2 (commencing with Section 6250) of Part 2 of Division 6 of the Welfare and Institutions Code.

(3) Drug abuse programs provided pursuant to Chapters 2 (commencing with Section 11960), and 3 (commencing with Section 11970) of Part 3 of Division 10.5 of the Health and Safety Code, and Sections 11981, 11983, 11987, and 11993 of the Health and Safety Code, and Sections 5606.5, 5650, 5652, 5701, and 5750 of the Welfare and Institutions Code.

(4) Alcoholism programs provided pursuant to Chapter 4 (commencing with Section 11795) of Part 2 of Division 10.5 of the Health and Safety Code, and Sections 11778, 11821, 11827, and 11840 of the Health and Safety Code.

(5) Assistance payments for children placed in foster care pursuant to subdivision (d) of Section 11450 of the Welfare and Institutions Code.

(6) Protective services for children, as defined in Section 16502.5 of the Welfare and Institutions Code.

(7) Out-of-home care for children provided pursuant to subdivision (c) of Section 16501 of the Welfare and Institutions Code.

(8) Information and referral services provided pursuant to Section 10807 of the Welfare and Institutions Code.

(9) Other programs, including but not limited to county jails, sheriff's departments and probation departments.

CHAPTER 832

An act to add and repeal Section 11310.5 of the Welfare and Institutions Code, relating to aid to families with dependent children, and making an appropriation therefor.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. The Legislature finds and declares that a significant portion of the recipients under the Aid to Families with Dependent Children program are competent able-bodied adults with dependent children who face barriers in achieving economic independence and security due to limited job skills and inadequate employment opportunities.

The Legislature also finds and declares that lack of affordable child care, both center and family day care, is a primary reason that heads of households of recipients under the Aid to Families with Dependent Children program (who are mainly women) are remaining outside the job force.

Therefore, it is the intent of this legislation to:

(a) Provide child care for recipients under the Aid to Families with Dependent Children program who are also participants in job training programs.

(b) Provide training to recipients under the Aid to Families with Dependent Children program who wish to become providers of child care, including assistance in obtaining appropriate licenses and job placement.

(c) Provide further employment assistance to recipients under the Aid to Families with Dependent Children program who have not been successful in gaining employment through a program of job search assistance.

(d) Provide employment assistance to recipients under the Aid to Families with Dependent Children who have not received employment search services under the Work Incentive Program or the Employment Preparation Program because of the lack of availability of these programs in the area or because the recipient was not referred to one or more of these programs due to a determination that the person would not be likely to succeed in obtaining employment with these services.

It is also the intent of the legislature to provide a program which seeks to encourage recipients under the Aid to Families with Dependent Children program into jobs rather than encouraging them to remain home and dependent on public assistance. It is believed that a program of this nature will positively affect the lives of both the children and adults. A goal of this act is to impact children in a way that their experience will be positive and strengthening as future members of society and that the program's impact on families will be positive.

Finally, it is the intent of the Legislature to reduce the growth in public assistance costs by assisting people to develop skills which will lead to entry-level employment in the private sector.

SEC. 2. Section 11310.5 is added to the Welfare and Institutions Code, to read:

11310.5. (a) The Employment Development Department, with the full cooperation of the State Department of Social Services, shall oversee the development of one demonstration project. The demonstration program shall be coordinated with a program operating under Article 3.7 (commencing with Section 11340).

The Employment Development Department may, at the option of a county, contract with that county, or with agencies within the county, to provide work opportunities for parents receiving aid under this chapter and meeting the criteria described in the legislative findings, as set forth in Section 1 of the act which added

this section to the Welfare and Institutions Code.

Entities with which the Employment Development Department may contract include, but are not limited to, a government day care center, a nonprofit day care program, or a private day care center.

Participation shall be optional, and shall be limited to recipients who are WIN registrants unless the project is implemented in a non-WIN county.

(b) Work assignments provided under this section shall provide all of the following:

(1) The area prevailing wage for similar occupations.

(2) Appropriate standards for health, safety, and other conditions applicable to the performance of work.

(3) Assignments which do not result in displacement of persons currently employed, or the filling of established unfilled position vacancies.

(4) Reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants.

(5) Participants shall not be required to travel an unreasonable distance from their homes or remain away from their homes overnight.

(c) Any funds appropriated to the Employment Development Department by the Legislature may be made available for the following purposes:

(1) Rent for facility or facilities.

(2) Salaries for personnel.

(3) Instructional materials.

(4) Placement services, including job placement and child placement.

(5) Intake and assessment of applicants, including a criminal record check.

(d) Any moneys appropriated for purposes of this section shall be available as matching funds to attract grants from other sources for the demonstration project. Involved state departments, including the Employment Development Department, the State Department of Social Services, and the State Department of Education, shall seek federal and other appropriate funds to implement provisions of this section and shall, to the extent possible, attempt to coordinate with other entities, including profit and nonprofit private organizations, as a means of attracting moneys.

In addition, the State Department of Social Services shall be authorized to seek the necessary federal approval or waivers to incorporate welfare grant diversion if appropriate to provide partial financing for this project. Implementation of the project shall be contingent on the department's securing enough funding, in addition to the General Fund appropriation available for this program, to support a program providing child care for at least 25 children.

(e) The Employment Development Department, in cooperation

with the State Department of Social Services, shall study the project set forth in this section and shall report to the Legislature not later than February 1, 1985. That report shall include, but shall not be limited to, all of the following:

(1) An evaluation of the training and placement activities of the program.

(2) An evaluation of followup data on program clients.

(3) An assessment of the cost effectiveness of the program.

(4) Recommendations for amending, repealing, or expanding this section.

(f) This section shall be operative until June 30, 1986, and as of that date is repealed.

SEC. 3. The sum of twenty-four thousand five hundred dollars ($24,500) is hereby appropriated from the General Fund to the Employment Development Department for purposes of this act.

CHAPTER 833

An act to amend Section 295 of the Health and Safety Code, relating to health.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 295 of the Health and Safety Code is amended to read:

295. (a) Except as otherwise provided in subdivision (b), no person shall sell, offer for sale, give away, distribute, or otherwise furnish materials intended to determine the presence of pregnancy, unless such person has obtained a certificate of acceptability from the state department declaring that such materials have been approved as to efficacy and safety by the state department.

(b) Subdivision (a) shall not apply to materials intended to determine the presence of pregnancy, which are sold, offered for sale, given away, distributed, or otherwise furnished to a physician and surgeon licensed to practice in this state, a pharmacist licensed to practice in this state, a licensed primary care clinic, a licensed health facility, or a public health agency.

(c) Any person other than a person described in subdivision (b) who intends to sell, offer for sale, give away, distribute or otherwise furnish materials intended to determine the presence of pregnancy shall first make application to the state department for certification of such materials. The state department shall also require that an application for certification shall be accompanied by samples of any materials which are the subject of the application as the state department may reasonably require.

Any violation of this section is a misdemeanor.

CHAPTER 834

An act to amend Section 2015.3 of the Code of Civil Procedure, and to amend Section 1305 of, and to add and repeal Section 1305.1 of, the Penal Code, relating to bail.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 2015.3 of the Code of Civil Procedure is amended to read:

2015.3. The certificate of a sheriff, marshal, or constable, or the clerk of the superior, municipal, or justice court, has the same force and effect as his or her affidavit.

SEC. 2. Section 1305 of the Penal Code is amended to read:

1305. (a) If, without sufficient excuse, the defendant neglects to appear for arraignment or for trial or judgment, or upon any other occasion when his presence in court is lawfully required, or to surrender himself in execution of the judgment, the court must direct the fact to be entered upon its minutes and the undertaking of bail, or the money deposited instead of bail, as the case may be, must thereupon be declared forfeited, and, if the amount of the forfeiture exceeds one hundred dollars ($100), the clerk of the court shall, promptly upon entering the fact of such failure to appear in the minutes, mail notice of the forfeiture to the surety on the bond or depositor of money instead of bond, and shall execute a certificate of such mailing and place it in the court's file in the case. If the surety is an authorized corporate surety insurer, and if the bond has plainly printed or stamped thereon the address of its principal office, such notice shall be mailed to such surety at such address, and mailing to the bail agent or solicitor who posted the bond shall not constitute compliance with this section; the clerk shall at the same time send a copy of such notice to the bail agent or solicitor who posted the bond. If the clerk fails to mail such notice within 30 days after such entry, the surety or depositor shall be released from all obligations under the bond.

But if at any time within 180 days after such entry in the minutes or, if mailing of notice of forfeiture is required, within 180 days after mailing such notice of forfeiture, the defendant and his bail appear, and satisfactorily excuse the defendant's neglect or show to the satisfaction of the court that the absence of the defendant was not with the connivance of the bail, the court shall direct the forfeiture of the undertaking or the deposit to be discharged upon such terms as may be just, and may order the bail reinstated and the defendant

released again on the same bond. If at any time within 180 days after such entry in the minutes or mailing as the case may be, the bail should surrender the defendant to the court or to custody, the court shall direct the forfeiture of the undertaking or the deposit to be discharged upon such terms as may be just.

If within 180 days after such entry in the minutes or mailing as the case may be, it is made to appear to the satisfaction of the court that the defendant is dead or is otherwise permanently unable to appear in court due to illness, insanity, or detention by civil or military authorities, and that the absence of the defendant was not with the connivance of the bail, the court shall direct the forfeiture of the undertaking or the deposit to be discharged upon such terms as may be just. If within 180 days after such entry in the minutes or mailing as the case may be, it is made to appear to the satisfaction of the court that the defendant is temporarily disabled by reason of illness, insanity, or detention by civil or military authorities and is therefore unable to appear in court at any time during the remainder of such 180 days, and that the absence of the defendant has not been with the connivance of the bail, then the period of time during which the disability continues shall not be deemed part of such 180 days. Upon a finding by the court that a reasonable period of time is necessary in order to return the defendant to court upon the termination of the disability, then such period of time, as fixed by the court, shall not be deemed part of such 180 days.

Unless waived by the district attorney or other prosecuting attorney, no order discharging the forfeiture of the undertaking or deposit shall be made without opportunity for hearing and the filing of a notice of motion for such order setting forth the basis for relief, with proof of service upon the district attorney or other prosecuting attorney at least 10 days prior to the time set for hearing of the motion and otherwise in compliance with the provisions of Section 1010 of the Code of Civil Procedure. Such notice may be given by the surety insurer, its bail agent, the surety, or depositor of money, any of whom may give such notice and appear either in person or by attorney. Such notice of motion must be filed within 180 days after such entry in the minutes or mailing as the case may be, and must be heard and determined within 30 days after the expiration of such 180 days, unless the court for good cause shown, shall extend the time for hearing and determination.

(b) If, without sufficient excuse, the defendant neglects to appear for arraignment, trial, judgment, or upon any other occasion when his presence in court is lawfully required, or to surrender himself in execution of the judgment, but the court has reason to believe that sufficient excuse may exist for his neglect to appear or surrender himself, the court may continue the case for such period as it deems reasonable to enable the defendant to appear without ordering a forfeiture of bail or issuing a bench warrant.

SEC. 3. Section 1305.1 is added to the Penal Code, to read:

1305.1. If an assessment is made a condition of discharging the

forfeiture under Section 1305, and the bail agent or depositor is not present in court, the clerk of the court shall within 30 days mail notice thereof to the surety or depositor at the address of its principal office and shall execute a certificate of mailing and place it in the court's file in the case. The time limit for payment shall in no event be less than 30 days after the date of mailing of such notice.

If the assessment has not been paid by the date specified, the court shall determine if a certificate of mailing has been executed, and if none has, the court shall cause a notice to be mailed to the surety or depositor, and said surety or depositor shall be allowed an additional 30 days to pay the assessment.

SEC. 4. Section 3 of this act shall remain in effect only until January, 1, 1988, and shall have no force or effect on or after such date, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 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.

CHAPTER 835

An act to add Section 12921.3 to the Insurance Code, relating to insurance.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 12921.3 is added to the Insurance Code, to read:

12921.3. The commissioner, in person or through employees of the department, shall receive and, as appropriate, investigate and respond to complaints by members of the public concerning the handling of insurance claims by insurers, or alleged misconduct by insurers or production agencies.

The commissioner, as he or she deems appropriate, shall provide for the education of, and dissemination of information to, members of the general public or licensees of the department concerning insurance matters.

CHAPTER 836

An act to amend Section 89900 of the Education Code, relating to the California State University.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 89900 of the Education Code is amended to read:

89900. (a) A certified public accountant shall be selected by each auxiliary organization described in Section 89901. Upon being notified of the certified public accountant selected by an auxiliary organization, the office of the chancellor shall forward the applicable auditing and reporting procedures to the selected certified public accountant. In accordance with procedures prescribed by the Department of Finance, such certified public accountant shall annually audit any and all state university or college auxiliary funds. The auxiliary organizations shall contract for and receive such audit annually, and shall submit such audit to the trustees and to the Director of Finance. Auxiliary organizations shall annually publish an audited statement of their financial condition which shall be disseminated as widely as feasible and be available to any person on request. In the case of an auxiliary organization primarily serving a single campus of the California State University, publication in the campus student newspaper shall be deemed compliance with this requirement. In the case of an auxiliary organization serving the Trustees of the California State University, distribution of the published audited statement of its financial condition at a regularly scheduled meeting of the trustees shall be deemed compliance with this requirement.

(b) In the case of an auxiliary organization primarily serving a single campus of the California State University, the president of that state university shall be responsible for ascertaining that all expenditures are in accordance with policies of the trustees, the propriety of all expenditures, and the integrity of the financial reporting, made by auxiliary organizations.

(c) The operation of auxiliary organizations shall be conducted in conformity with regulations established by the trustees, and the accounting procedures of such auxiliary organizations shall be approved by the Director of Finance. The regulations shall include provisions requiring the governing board of each auxiliary organization to provide salaries, working conditions and benefits, for the full-time employees of each auxiliary organization which are comparable to those provided California State University employees performing similar services; provided, however, that the regulations may permit retirement benefits or permanent status benefits or both

to be withheld from temporary and executive employees of each auxiliary organization, and provided further that the regulations may exempt from the requirement of providing retirement benefits any auxiliary organization that is funded primarily by mandatory student fees collected by the trustees. For the purposes of this subdivision, a temporary employee is (a) an employee employed for a research project, workshop, institute, or other special project funded by any grant, contract or gift; or (b) an employee whose contract of employment is for a fixed term not exceeding three years. For the purposes of this subdivision, an executive employee is any management employee with responsibility for the development and execution of auxiliary organization policy and includes, but is not limited to, general managers, business managers, directors, and the like. For purposes of this subdivision, "full-time employee" means a person who is employed in a permanent position for 40 hours per week or for the required number of hours of a particular work shift, whichever is the lesser. Persons employed on a temporary, intermittent, irregular time base, or on a limited term basis are not "full-time employees," unless those employees are engaged on a continuing 10-month or academic year basis and are employed for 40 hours per week or for the required number of hours of a particular work shift, whichever is the lesser. For those full-time employees whose duties are not comparable to classes in California State University employment the salaries established shall be at least equal to the salaries prevailing in other educational institutions in the area or commercial operations of like nature. This requirement shall apply to full-time employees of auxiliary organizations even if there are no California State University employees performing similar services.

(d) Retirement benefits may be provided by other than the Public Employees' Retirement System. A contract for participation in the Public Employees' Retirement System in accordance with the terms and conditions of the public employees' retirement law shall be deemed to satisfy fully the requirements of subdivision (c) with respect to retirement.

Notwithstanding anything in subdivision (c) to the contrary, the regulations established by the trustees may exempt the governing board of any newly created auxiliary organization from the requirement of providing retirement benefits for a period not to exceed three years from the date that the auxiliary organization is established.

CHAPTER 837

An act to add Section 321 to the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 321 is added to the Public Utilities Code, to read:

321. The commission shall designate one of its staff, together with such assistance as it deems necessary, to serve in the capacity of public adviser. The public adviser shall assist members of the public and ratepayers who desire to testify before or present information to the commission in any hearing or proceeding of the commission open to the public.

SEC. 2. The Legislature recognizes that the Public Utilities Commission must redirect existing resources to accomplish the tasks and purposes required by Section 1 of this act, and hereby directs the commission to report to the Legislature pursuant to Section 28 of the Budget Act of 1982 (Ch. 326, Stats. 1982) those activities which will be curtailed or eliminated, notwithstanding any other provision of law which requires those activities, in order to accomplish the purposes of this act.

CHAPTER 838

An act to amend Sections 10, 12a, 134, and 135 of the Code of Civil Procedure, and to amend Section 6700 of the Government Code, relating to holidays, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 10 of the Code of Civil Procedure is amended to read:

10. Holidays within the meaning of this code are every Sunday and such other days, other than the holiday specified in subdivision (c) of Section 6700 of the Government Code, as are specified or provided for as holidays in Chapter 7 (commencing with Section 6700) of Division 7, Title 1 of the Government Code.

SEC. 2. Section 12a of the Code of Civil Procedure is amended to read:

12a. If the last day for the performance of any act provided or required by law to be performed within a specified period of time shall be a holiday, then such period is hereby extended to and including the next day which is not a holiday. The term "holiday" as used herein shall mean all day on Saturdays, all holidays specified in Section 6700 and 6701 of the Government Code, other than the holiday specified in subdivision (c) of Section 6700 of the Government Code, and, to the extent provided in Section 12b, all days which by terms of Section 12b are required to be considered as holidays; provided, however, that for a period of time expiring prior to January 1, 1952, time shall be computed and extended in accordance with the provisions of this section as they existed on January 1, 1951.

This section applies also to Sections 659, 659a, 946, and 974 through 982, and the periods of time severally therein prescribed or provided for, and to all other provisions of law, however stated or wherever expressed, providing or requiring an act to be performed on a particular day or within a specified period of time. The mention of these sections is not intended and shall not be construed to exclude the application of this section to such other provisions of law, whether the latter are expressed in this or any other code or statute, ordinance, rule, or regulation.

SEC. 3. Section 134 of the Code of Civil Procedure is amended to read:

134. No court, other than the Supreme Court and the courts of appeal, shall be open for the transaction of judicial business on any day specified or provided for as a holiday by Chapter 7 (commencing with Section 6700) of Division 7, Title 1 of the Government Code other than a holiday specified in subdivision (c) of Section 6700 of the Government Code and other than a special holiday or, in counties wherein county offices are, pursuant to ordinance, open for the transaction of county business on such election days, on a day on which an election is held throughout the state, except for the following purposes:

1. To give, upon their request, instructions to a jury when deliberating on their verdict;

2. To receive a verdict or discharge a jury;

3. For the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature.

Injunctions and writs of prohibition may be issued and served on any day.

SEC. 4. Section 135 of the Code of Civil Procedure is amended to read:

135. On all special holidays, as the term "special holidays" is used in Section 6705 of the Government Code, the courts of this state shall be open for the transaction of any and all judicial business. If any day specified or provided for as a holiday in Chapter 7 (commencing with Section 6700) of Division 7, Title 1 of the Government Code, other than the holiday specified in subdivision (c) of Section 6700 of

the Government Code and other than a special holiday or, in counties wherein county offices are, pursuant to ordinance, open for the transaction of county business on such election days, on a day on which an election is held throughout the state, happens to be the day appointed for the holding or sitting of a court, or to which it is adjourned, it shall be deemed appointed for or adjourned to the next day.

SEC. 5. Section 6700 of the Government Code is amended to read:

6700. The holidays in this state are:

(a) Every Sunday.

(b) January 1st.

(c) January 15th, known as "Dr. Martin Luther King, Jr. Day."

(d) February 12th, known as "Lincoln Day."

(e) The third Monday in February.

(f) The last Monday in May.

(g) July 4th.

(h) First Monday in September.

(i) September 9th, known as "Admission Day."

(j) The second Monday in October, known as "Columbus Day."

(k) November 11th, known as "Veterans Day."

(*l*) December 25th.

(m) Good Friday from 12 noon until 3 p.m.

(n) Every day appointed by the President or Governor for a public fast, thanksgiving, or holiday.

Except for the Thursday in November appointed as Thanksgiving Day, this subdivision, and subdivision (c), shall not apply to a city, county, or district unless made applicable by charter, or by ordinance or resolution of the governing body thereof.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to 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.

The board of supervisors of any county may by ordinance or resolution alter the date of any holiday designated in (c), (d), (e), (g), (h), (i), (j), or (k) applicable to the superior, municipal, and justice courts in such county. Provided, however, that any such altered holiday shall not be considered a holiday or a day on which a court is not in session for purposes of taking criminal defendants before a magistrate as provided in Section 825 of the Penal Code.

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

This act is intended to clarify legislation enacted in 1981. The

holiday specified in this act was inadvertently included in a 1931 statute as a day when the courts were to be closed. It is the intent of the Legislature, because of the importance of having the courts open to conduct their essential business, to make it clear, at the earliest possible time, that the courts are to remain open on that day. It is therefore necessary that this act take immediate effect.

CHAPTER 839

An act to amend Section 27351 of, and to add Article 3.3 (commencing with Section 27360) to Chapter 5 of Division 12 of, the Vehicle Code, relating to child seat restraints.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 27351 of the Vehicle Code is amended to read:

27351. (a) The secretary shall prepare and disseminate materials for the purpose of educating the public about the importance of using seat restraints for infants and children under 15 years of age who are passengers in motor vehicles. The materials shall include, but not be limited to, audiovisual aids and written materials which explain the effects of motor vehicle accidents on infant and child health and the reduction in risk of injury or death as a result of the utilization of seat restraints for infants and children. In addition, the secretary shall prepare and disseminate radio and television messages which explain the effects of motor vehicle accidents on infant and child health and urge the use of seat restraints for infants and children. No more than 20 percent of any funds expended pursuant to this subdivision shall be expended for administrative purposes.

(b) Within one year after commencement of the public education campaign specified in subdivision (a), the secretary shall enter into an arrangement with appropriate law enforcement agencies to issue, at their discretion, except as provided under Article 3.3 (commencing with Section 27360), an oral hazard warning to any person who operates any motor vehicle, or combination of vehicles, if, after the vehicle has been stopped, the law enforcement officer observes that an infant or child under 15 years of age is a passenger and is not restrained by use of an available seat restraint. The law enforcement officers may also advise and urge the utilization of seat restraints that are available in the vehicle.

SEC. 2. Article 3.3 (commencing with Section 27360) is added to Chapter 5 of Division 12 of the Vehicle Code, to read:

Article 3.3. Child Passenger Restraints Requirements

27360. (a) It is unlawful for the parent or legal guardian, when present in a passenger vehicle or motor truck of less than 6,001 pounds unladen weight which is owned by him or her and registered in this state, to permit his or her child or ward under the age of four years or weighing less than 40 pounds to be transported upon a highway in the motor vehicle without providing and properly using, for each such child or ward, a child passenger seat restraint system meeting applicable federal motor vehicle safety standards.

Any charge under this subdivision shall be dismissed when the person charged produces in court proof that a child passenger seat restraint system has been obtained for use of the child, except that, upon a second or subsequent charge, the court, in its discretion, may dismiss the charge.

(b) It is unlawful for the parent or legal guardian, when present in a passenger vehicle or motor truck of less than 6,001 pounds unladen weight which is not owned by him or her but which is registered in this state, to permit his or her child or ward under the age of four years or weighing less than 40 pounds to be transported upon a highway in the motor vehicle without providing and properly securing his or her child or ward in either a child passenger restraint system meeting applicable federal motor vehicle safety standards or available seat belts.

(c) It is unlawful for any driver to transport on a highway any child under four years of age or weighing less than 40 pounds in a passenger vehicle or motor truck of less than 6,001 pounds unladen weight which is registered in this state without providing and properly securing the child in either a passenger seat restraint system meeting applicable federal motor vehicle safety standards or available seat belts. This subdivision shall not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

27361. Any law enforcement officer reasonably suspecting a violation of Section 27360 may stop any vehicle transporting a child appearing to the officer to be within the age or weight specified in Section 27360. The officer may issue a notice to appear for a violation of Section 27360.

27362. No retailer shall sell, offer for sale, or install in any motor vehicle any child passenger seat restraint system not conforming to all applicable federal motor vehicle safety standards on the date of sale or installation.

27363. The court may exempt from the requirements of this article any class of child by age, weight, or size if it is determined that the use of a child passenger seat restraint system would be impractical by reason of physical unfitness, medical condition, or size. The court may require adequate proof of the child's physical unfitness, medical condition, or size.

27364. It is the intent of the Legislature, in enacting this article,

to insure that children, who are, because of their tender years, helpless dependent passengers, are provided with the safest transportation possible. Nothing in this article shall be construed to extend application of these provisions to a class of children other than the class of children herein specified.

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 840

An act to amend Sections 1771, 1772, 1773.5, 1774.4, 1775, and 1779 of, and to repeal Section 1773 of, the Health and Safety Code, relating to health.

[Approved by Governor September 9, 1982 Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 1771 of the Health and Safety Code is amended to read:

1771. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Advisory board" or "board" means the Life Care Contract Advisory Board.

(b) "Certificate" or "certificate of authority" means an authorization in writing, in the form designated by the state department, for a provider to enter into one or more life care contracts at a single specified facility.

(c) "Contracts" or "agreements" means life care contracts.

(d) "Department" or "state department" means the State Department of Social Services.

(e) "Director" means the Director of Social Services.

(f) "Entrance fee" means an initial or deferred transfer to a provider of a sum of money or property, made or promised to be made by a person entering into a life care contract, for the purpose of assuring services pursuant to a life care contract or as full or partial payment for the promise to provide a facility.

(g) "Escrow agent" means any of the following entities approved by the director as capable of ensuring the safety of the funds and properties entrusted to it and capable and willing to perform the terms of such escrow pursuant to the escrow agreement and the

provisions of this chapter:

(1) A bank which is a member of the Federal Deposit Insurance Corporation.

(2) A building and loan association which is a member of the Federal Savings and Loan Insurance Corporation.

(3) A trust company.

(4) Any other escrow agent.

(h) "Facility" means any place or accommodation in which a provider undertakes to provide a resident with nursing services, medical services, health-related services, board and lodging and care as necessary, or any combination of such services, for a term in excess of one year, or for life, pursuant to a life care contract, whether such accommodation is constructed, owned, leased, rented or otherwise contracted for by the provider.

(i) "Life care contract" means a contract to provide to a person for the duration of such person's life or for a term in excess of one year, nursing services, medical services, or health-related services, board and lodging and care as necessary, or any combination of such services, for such person in a facility, which is conditioned upon the transfer of property. Such transfer may include a payment of an entrance fee to the provider of such services or the payment of regular periodic charges for the care and services involved, or both such payments and includes continuing care agreements.

(j) "Living unit" means an apartment, room, or other area within a facility set aside for the exclusive use of one or more identified residents.

(k) "Monthly care fee" means the monthly cost to a resident of services rendered pursuant to a life care contract, exclusive of entrance fees or other prepayments, but including all nursing services, medical services or health-related services, board and lodging, or any combination of such services, and any other regular periodic charges to the resident, determined on a monthly basis, pursuant to the provisions of a life care contract.

(*l*) "Prepaid life care contract" means a life care contract under which the advance payment, including any entrance fee, is more than nine times the annual amount of the monthly care fee or 108 times the monthly care fee. Life care contracts which provide for changes in the monthly care fee to cover the actual cost of care are excluded from this definition.

(m) "Provider" means a person, association, or organization of any kind which provides, or proposes to provide, services or board and lodging pursuant to a life care contract.

(n) "Resident" means a person who enters into a life care contract with a provider, or who is designated in a life care contract, to be a person being provided or to be provided with services or board and lodging.

(o) "Transferor" means a person who transfers or promises to transfer a sum of money or property to a provider for the purpose of assuring services pursuant to a life care contract, whether for the

benefit of the transferor or another.

SEC. 1.5. Section 1772 of the Health and Safety Code is amended to read:

1772. When necessary to secure the performance of all obligations of the provider to transferors, the state department may record with the recorder of any county a notice of lien on behalf of the transferors. From the time of such recording, there exists a lien on all real property of the provider, not exempt from execution owned by him or her at the time or which he or she may afterward acquire before the release of the lien, and located within the county where such notice is recorded. The state department shall file a release of the lien upon proof of complete performance of all obligations to transferors. The state department may file a release of the lien if the state department deems the lien no longer necessary to secure the performance of all obligations of the provider to the transferors. The provider may appeal to the state department from a refusal of a request for release of the lien. The decision of the board shall be subject to court review pursuant to Section 1094.5 of the Code of Civil Procedure, upon petition of the provider filed within 30 days of service of the decision.

SEC. 2. Section 1773 of the Health and Safety Code is repealed.

SEC. 3. Section 1773.5 of the Health and Safety Code is amended to read:

1773.5. An individual or corporation, planning to construct a life care facility using deposits from potential residents, may apply to the department for a permit to sell deposit subscriptions. The permit to sell deposit subscriptions shall be based on the same criteria as an application for a certificate of authority (except possession of licenses) plus an acceptable arrangement for maintaining deposits by an escrow agent until the project is at least 50 percent completed and 50 percent subscribed to.

SEC. 4. Section 1774.4 of the Health and Safety Code is amended to read:

1774.4. Before issuing a certificate of authority for any facility at which care is, or will be, furnished pursuant to a prepaid life care contract executed after January 1, 1979, the state department shall require that the applicant for a certificate establish a reserve fund escrow account with an escrow agent, and shall condition the issuance of such certificate upon current maintenance of such escrow account, in an amount which equals the aggregate principal and interest, rental, or lease payments due during the next 12 months on account of any first mortgage or other long-term financing of the facility or any leases or other rental agreement for a facility. The principal of the escrow account may be invested as provided in Section 1775 for reserve funds with the earnings thereon payable to the provider, and amounts not to exceed in the aggregate one-sixth of the total principal shall be released to the provider upon notice to the director. The escrow agreement shall provide that upon withdrawal of any such amount by the provider, the escrow agent

shall provide immediate written notice of such withdrawal to the director and that any amount released to the provider shall be repaid to the escrow account within two years of the release of such amount. If the provider does not repay the escrow account within such two-year period, the escrow agent shall provide immediate written notice to the director.

SEC. 5. Section 1775 of the Health and Safety Code is amended to read:

1775. Any organization or person receiving a certificate of authority to enter into life care contracts shall maintain reserves covering obligations assumed under life care contracts entered into and maintained. Such reserves shall be in an amount not less than the sum computed in accordance with the standard of valuation based upon a modern and up-to-date table of mortality selected by the state department in consultation with the Department of Insurance. The table of mortality shall be employed in connection with all care agreements entered into on or after January 1, 1958, while McClintock's table of mortality among annuitants shall be employed in connection with care agreements entered into prior to January 1, 1958. The interest assumption for such computation shall be determined by the state department in consultation with the Department of Insurance.

Failure to maintain reserves as provided in this section shall be deemed a breach of all agreements to furnish care.

The reserves shall consist of the following:

(a) Deposits in commercial and savings accounts with banks which are members of the Federal Deposit Insurance Corporation and approved by the state department.

(b) Investments in certificates issued by building and loan associations which are members of the Federal Savings and Loan Insurance Corporation and approved by the state department.

(c) Notes receivable secured by first deeds of trust and first mortgages.

(d) Bonds and stocks selected from an approved list, as determined by the state department in consultation with the Department of Insurance and the Department of Corporations. In the event stocks, bonds, and securities that are not on the approved list are part of the reserves, and if they are to be retained as part of the reserves, it shall not be necessary that such unapproved stocks, bonds, and securities be disposed of immediately, but they shall be disposed of in accord with regulations of the state department, which disposal shall be accomplished in a gradual manner so as to avoid loss to certificate holders. Securities which, although not on the approved list, should be retained in the reserve for reasons acceptable to the state department may be retained with the specific approval of the state department.

(e) Real estate used to provide care and housing for holders of life care contracts, continuing care agreements, or equities therein, owned by the organization or person, shall be based on 70 percent

of the net equity thereof, which shall be the appraised value less any depreciation and encumbrances. The appraisal shall be made by an appraiser approved by the state department.

(f) Furniture and equipment situated in property used to provide care and housing for holders of life contracts, to the extent of 70 percent of the net equity thereof.

(g) Real estate or equities therein owned by the organization or person as an investment, the rents from which are used to discharge obligations to the holder of life care contracts or to reinvest as a part of the reserves.

(h) Investment certificates or shares in open end investment trusts (1) whose management must have been managing a mutual fund registered under the Investment Company Act of 1940, or the management must have been registered as an investment adviser under the Investment Advisers' Act of 1940, and in either case must currently have at least one hundred million dollars ($100,000,000) under its supervision; (2) which is qualified for sale in California; (3) has at least 40 percent of its directors or trustees not affiliated with the fund's management company or principal underwriter or any of their affiliates; (4) is registered under the Investment Company Act of 1940; and (5) is a fund listed as qualifying under rules maintained by the Commissioner of Corporations in cooperation with the Department of Insurance.

(i) At least 25 percent of the reserve necessary to maintain all continuing care agreements, or life care contracts, must consist of listed bonds, stocks, commercial and savings accounts and building and loan certificates, except that a 5-percent requirement will apply to those homes and organizations which have at least one-half of their contracts under the monthly fee basis. Any person or organization holding a certificate of authority to enter into life care agreements upon the effective date of this act, that is unable to meet the reserve requirements of this subdivision, may petition the state department for a modification of the percentage in the reserve requirement.

Any person or organization which has entered into care agreements prior to October 1, 1957, but which was not required prior to September 11, 1957, to obtain a certificate of authority under this chapter, is not required to maintain reserves covering obligations assumed under any agreement entered into prior to October 1, 1957.

SEC. 6. Section 1779 of the Health and Safety Code is amended to read:

1779. Any agreement constituting a life care contract shall contain all of the following in addition to any other terms or matter required by the state department:

(a) The value of all property transferred, including, but not limited to, donations, subscriptions, fees, and any other amounts paid or payable by or on behalf of the resident. The basis for changing monthly care fees shall be printed in a size equal to at least 10-point boldface type.

(b) The services which are to be provided by the provider to the resident, including, in detail, all items which the resident will receive, such as board, room, medical care, clothing, burial, incidentals, and whether such items will be provided for a designated time period or for life.

(c) A copy of the current financial statement.

(d) A statement in boldface type informing the transferor of the terms and conditions under which the contract may be terminated by either party, including any health or financial conditions for a person to continue as a resident and any conditions under which all or any portion of the entrance fee will not be refunded by the provider. No life care contract shall be terminated except upon at least 90 days' notice, except that, during the first 90-day trial residence period, the agreement may be terminated by either party without cause and without advance notice. Such requirement shall be written into the terms of the contract, consistent with state law.

(e) A conspicuous statement in a size equal to at least 10-point boldface type in immediate proximity to the space reserved for the signature of the transferor that provides as follows:

"You, the transferor, may cancel this transaction at any time within 90 days from the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(f) A completed form in duplicate, captioned "Notice of Cancellation" which may be attached to the agreement and be easily detachable, and which shall contain in type of at least 10-point size the following statement:

"Notice of Cancellation"

/Enter date of transaction/

(Date)

You may cancel this transaction, without any penalty, within 90 days from the above date.

If you cancel, any property transferred, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days after making possession of the living unit available to the provider, and any security interest arising out of the transaction will be canceled.

If you cancel, you are obligated for the reasonable value of the services received by you from the provider after the first seven days up to the date you canceled or made available to the provider the possession of any living unit delivered to you under this contract, whichever is later.

If you cancel, you must make available to the provider, in substantially as good condition as when received, the possession of any living unit delivered to you under this contract.

Possession of the living unit must be made available to the provider

within 20 days of your notice of cancellation. If you fail to make the possession of any living unit available to the provider, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to _____ ,
/Name of provider/

at _____
/Address of provider's place of business/

not later than midnight of _____
(Date)

I hereby cancel this transaction _____
(Date)

_____
(Transferor's signature)

(g) The name and address of the provider to which a notice of cancellation is to be delivered.

(h) The date the transferor signed the agreement.

(i) With respect to the transfer of real property pursuant to this chapter, a statement that the deed or other instrument of conveyance shall contain a recital that the transaction is made pursuant to a "life care contract" and may be subject to rescission by the transferor within 90 days from the date the transfer.

The failure to comply with the provisions of this subdivision shall not affect the validity of title to real property transferred pursuant to this chapter.

CHAPTER 841

An act to add Section 5563.7 to the Public Resources Code, and to amend and supplement the Budget Act of 1982 by amending Item 3790-301-732 thereof, and by adding Item 3790-102-732 thereto, relating to parks and recreation, and making an appropriation therefor.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 5563.7 is added to the Public Resources Code, to read:

5563.7. Notwithstanding Sections 5540 and 5563, the Board of Directors of the East Bay Regional Park District may, without obtaining the consent of the voters, lease real property for a term not exceeding 50 years for the San Leandro Bay Restaurant Project. The

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 and shall require the lessee and any successor in interest to construct and maintain facilities, which are in addition to the premises leased for restaurant operations and which will provide for the safety and convenience of the general public in the use and enjoyment of adjacent and nearby property of the district.

SEC. 2. Item 3790-102-732 is added to the Budget Act of 1982, to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964

3790-102-732—For grants to counties, cities, or cities and counties for acquisition, development, or acquisition and development, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964 300,000

Schedule:

Project grants	300,000	
Projects in Contra Costa County:		
(1) East Bay Regional Park District, East Bay Trail Project—acquisition and development of riding and hiking trails..	300,000	

Provisions:

1. Notwithstanding Section 2, the funds appropriated in category (1) shall be available for encumbrance only for the 1982–83 fiscal year.

SEC. 3. Item 3790-301-732 of the Budget Act of 1982 is amended to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964 PROGRAM

3790-301-732—For capital outlay, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964 10,000

Schedule:

(b) Design and construction planning	10,000

SEC. 4. The Department of Parks and Recreation shall convey to the East Bay Regional Park District all right, title, and interest owned

or held by the state, including easements and rights-of-way, in the real property in the County of Contra Costa consisting of a segment of the California Riding and Hiking Trail between the Alhambra Hills west of the City of Martinez and its junction with the Contra Costa Canal Trail near the City of Pleasant Hill and a segment of that trail between its junction with the Contra Costa Canal Trail near the Lime Ridge Open Space Area and the northern boundary of Mt. Diablo State Park. The district shall improve, construct, operate, and maintain the trails conveyed pursuant to this section as a part of the East Bay Regional Park System and may acquire and develop additional trail facilities necessary for the operation of those trails.

This section shall become operative only if funds are appropriated in the Budget Act of 1982 for the acquisition and development of riding and hiking trails as a part of the East Bay Regional Park System.

CHAPTER 842

An act to amend Sections 11492 and 14171 of the Welfare and Institutions Code, and to amend Section 28 of Chapter 1163 of the Statutes of 1981, and to repeal Section 7 of Chapter 1164 of the Statutes of 1981, relating to Medi-Cal.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 11492 of the Welfare and Institutions Code is amended to read:

11492. In any action under this article in which child support is or may be at issue the summons and complaint or a notice of motion shall be served in conjunction with a medical insurance form and no responsive pleading may be filed without also filing a completed medical insurance form. This shall apply only to actions brought by the district attorney where any child involved in the action is known to be an applicant for or recipient of aid under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200).

The district attorney shall forward all such notification of medical insurance coverage to the State Department of Health Services for enforcement.

SEC. 2. Section 14171 of the Welfare and Institutions Code is amended to read:

14171. (a) The director shall adopt regulations establishing an administrative appeal process to review grievances or complaints

arising from the findings of an audit or examination made pursuant to Sections 10722 and 14170.

(b) The administrative appeal process established by the director shall guarantee a provider the right to present any grievances or complaints arising from the findings of an audit or examination made by or on behalf of the department pursuant to Sections 10722 and 14170 at an impartial hearing which shall include the procedural requirements of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. The impartial hearing shall be conducted by a hearing officer appointed by the director. The director may subcontract with the Office of Administrative Hearings to conduct hearings on cases involving complicated issues of fact or law, or to reduce the backlog of cases.

(c) Notwithstanding subdivision (b) of this section, the administrative appeal process established by the director shall commence with an informal conference with the provider, a representative of the department and the hearing officer. The hearing officer, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (b).

(d) In the event recovery of a disallowed payment has been made by the department, a provider who prevails in an appeal of a disallowed payment shall be entitled to interest at the rate equal to the monthly average received on investments in the Pooled Money Investment Fund, commencing on the date the appeal is formally accepted by the department or the date payment is received by the department, whichever is later.

(e) Commencing 60 days after issuance of the first statement of account status or demand for repayment resulting from an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate equal to the monthly average received on investments in the Pooled Money Investment Fund during the month the first statement of account status or demand for repayment was issued shall be assessed against any unrecovered overpayment due to the department.

(f) The final decision of the director shall be reviewable in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

SEC. 3. Section 28 of Chapter 1163 of the Statutes of 1981 is amended to read:

Sec. 28. Notwithstanding proviso 5 of the provisions applicable to Items 426-101-001 to 426-001-890, inclusive, of the Budget Act of 1981, Chapter 99 of the Statutes of 1981, where local assistance or incentive costs are incurred because of the provisions of Section 14016.3 or

14016.4 of the Welfare and Institutions Code or where interagency agreement is required by Section 14101.7 of the Welfare and Institutions Code, or where medical care and services, as defined in Section 14132 of the Welfare and Institutions Code, are provided, any money recovered is hereby appropriated and authorized for expenditure for those purposes.

SEC. 4. Section 7 of Chapter 1164 of the Statutes of 1981 is repealed.

CHAPTER 843

An act to amend Section 751.13, 751.25, and 751.26 of the Code of Civil Procedure, to add Section 9403.1 to the Commercial Code, to amend Sections 27320 and 27321 of the Government Code, and to amend Section 10606 of the Health and Safety Code, relating to records.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 751.13 of the Code of Civil Procedure is amended to read:

751.13. At the time of filing the complaint the plaintiff, and at the time of filing his or her answer every defendant claiming any affirmative relief, shall record in the office of the recorder of the county in which the property is situated a notice of the pendency of the action containing the object of the action or defense, and a particular description of the property affected by it. The recorder shall record the notice in the same manner as provided in Section 409.

SEC. 2. Section 751.25 of the Code of Civil Procedure is amended to read:

751.25. Upon the filing of the notice for recordation the recorder shall record the notice in the same manner as provided in Section 409.

SEC. 3. Section 751.26 of the Code of Civil Procedure is amended to read:

751.26. After three days after the notice has been filed for record, all persons who may begin actions pursuant to this chapter shall be deemed to have notice of the facts stated in the notice. Neither the filing of the notice for record nor its recordation constitute constructive notice to any other person or for any other purpose. The original of the notice shall be returned to the party requesting the recordation as provided in Section 27321 of the Government Code.

SEC. 4. Section 9403.1 is added to the Commercial Code, to read:

9403.1. The county recorder may destroy any index of financing

statements, including any amendments, releases, continuations, terminations, assignments, any other document relating to an original financing statement, if the last entry in the index is six or more years old.

SEC. 5. Section 27320 of the Government Code is amended to read:

27320. When any instrument authorized by law to be recorded is deposited in the recorder's office for record, the recorder shall endorse upon it in the order in which it is deposited, the year, month, day, hour, and minute of its reception, and the amount of fees for recording. The recorder shall record it without delay, together with the acknowledgements, proofs, certificates, and prior recording data written upon or annexed to it, with the plats, surveys, schedules, and other papers thereto annexed, and shall note on the record its identification number, and the name of the person at whose request it is recorded. Efforts shall be made to assign identification numbers sequentially, but an assignment of a nonsequential number may be made if not in violation of express recording instructions regarding a group of concurrently recorded instruments and if, in the discretion of the county recorder, such assignment best serves the interest of expeditious recording.

SEC. 6. Section 27321 of the Government Code is amended to read:

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

Where any recorded instrument or document effectuating a change in ownership is not accompanied by a change in ownership statement, the recorder shall either include with the return of any such recorded instrument or document a change in ownership statement as provided in Section 480 of the Revenue and Taxation Code or specifically identify those recorded documents not accompanied by an ownership statement when providing the assessor with a copy of the transfer of ownership document pursuant to Section 255.7 of the Revenue and Taxation Code.

SEC. 7. Section 10606 of the Health and Safety Code is amended to read:

10606. The fee for any search of the files and records performed by the custodian of the records for a specific record when no certified copy is made shall be paid in advance by the applicant. The fee shall be the same as the fee required in Section 10605.

SEC. 8. 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 844

An act to amend Sections 16522, 53651, and 53663 of the Government Code, relating to deposits of public moneys.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan

Mortgage Corporation established under the Emergency Home Finance Act of 1970, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16521, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the bank;

(2) The State Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(i) Any promissory note on which any payment is more than 90 days past due,

(ii) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(iii) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(h) Bonds issued by the State of Israel.

(i) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

(j) Any municipal securities, as defined by Section 3 (a) (29) of the Securities Exchange Act of June 6, 1934 (15 U.S.C. 78, as amended), which are issued by this state or any local agency thereof.

SEC. 2. Section 53651 of the Government Code is amended to read:

53651. Eligible securities are any of the following:

(a) United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations

of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of such bonds upon all property within its boundaries subject to taxation by such local agency or district, and in addition, sales tax revenue bonds, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by such state, local agency or district or by a department, board, agency or authority thereof.

(d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations.

(e) Registered warrants of this state.

(f) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States postal service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the federal home loan banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home loan bank established under said act, bonds, debentures and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and obligations of the Tennessee Valley Authority.

(g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7.6 (commencing with Section 53850) of this Chapter 4.

(h) State of California notes.

(i) Bonds, notes, certificates of indebtedness, warrants or other obligations issued by: (1) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or any local agency

thereof having the power to levy taxes, without limit as to rate or amount, to pay the principal and interest of such obligations, or (2) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or a department, board, agency or authority thereof except bonds which provide for or are issued pursuant to a law which may contemplate a subsequent legislative appropriation as an assurance of the continued operation and solvency of such department, board, agency or authority but which does not constitute a valid and binding obligation for which the full faith and credit of such state or the Commonwealth of Puerto Rico are pledged, which are payable solely out of the revenues from a revenue-producing source owned, controlled or operated thereby; provided such obligations issued by an entity described in (1), above, are rated in one of the three highest grades, and such obligations issued by an entity described in (2), above, are rated in one of the two highest grades by a nationally recognized investment service organization that has been engaged regularly in rating state and municipal issues for a period of not less than five years.

(j) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, the Government Development Bank of Puerto Rico, or the Asian Development Bank.

(k) Participation certificates of the Export-Import Bank of the United States.

(*l*) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code.

(m) Promissory notes secured by first mortgages and first trust deeds upon improved residential real property located in California, provided that:

(1) The promissory notes are, notwithstanding Section 53652, at all times in an amount in value at least 50 percent in excess of the amount deposited with the depository;

(2) The State Treasurer issues regulations establishing procedures for determining the value of the promissory notes, and the local agency administrator develops standards and procedures necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by the promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(A) Any promissory note on which any payment is more than 90 days past due,

(B) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(C) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(n) Any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation issued to finance the construction of a school building or school buildings pursuant to a lease or agreement with a school district entered into in compliance with the provisions of Section 39315 or 81345 of the Education Code, and also any bonds, notes, warrants or other evidences of indebtedness issued to refinance any such bonds, notes, warrants, or other evidences of indebtedness as specified in Section 39317 of the Education Code.

(o) Any municipal securities, as defined by Section 3 (a) (29) of the Securities Exchange Act of June 6, 1934 (15 U.S.C. 78, as amended), which are issued by this state or any local agency thereof.

SEC. 3. Section 53663 of the Government Code is amended to read:

53663. (a) Each agent of depository shall report in writing to the administrator within two business days after any withdrawal, substitution or addition of pooled securities and shall state the name and market value of the securities withdrawn, substituted or added together with the total deposits then secured by the pool. This information shall be available from the administrator to the treasurer upon request.

(b) Each depository shall report in writing to the administrator weekly, giving the total amount of all deposits held by such depository pursuant to this article. Such report shall be as of close of business on Wednesday of each week and shall be delivered to the office of the administrator or deposited in the United States mail, postage prepaid, addressed to the office of the administrator, within five business days. Where there has occurred no change in the deposits required to be held by the depository pursuant to this article, the report required by this subdivision need only state that fact.

CHAPTER 845

An act to amend Sections 6702, 8800 and 8806 of the Financial Code, relating to savings and loan associations.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. 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.

(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.

(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. 2. Section 8800 of the Financial Code is amended to read:

8800. The commissioner may examine into the affairs of every domestic association and of every foreign association doing business in this state if in the judgment of the commissioner the condition of any association renders such an examination necessary.

SEC. 3. Section 8806 of the Financial Code is amended to read:

8806. For the purpose of an examination conducted pursuant to Section 8800, the commissioner may accept the examination of any association made by the Federal Home Loan Bank Board, a Federal Home Loan Bank, the Federal Savings and Loan Insurance

Corporation, or a certified or other public accountant or firm of certified or other public accountants selected by the association and approved by the commissioner or may examine any such institution in conjunction with the Federal Home Loan Bank Board, a Federal Home Loan Bank, or the Federal Savings and Loan Insurance Corporation.

CHAPTER 846

An act relating to fiscal affairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. The sum of fourteen million dollars ($14,000,000) is hereby appropriated from the General Fund to the Controller for the purpose of paying interest costs on the money transferred to the General Fund pursuant to Section 16310 of the Government Code.

SEC. 2. In the event the appropriation in Section 1 becomes exhausted, there is hereby appropriated from the General Fund to the Controller the amount necessary to pay interest costs on the money transferred to the General Fund pursuant to Section 16310 of the Government Code. The total amount appropriated herein shall be determined by applying the interest rate provided in Section 16310 of the Government Code to the amount of money transferred for the period of the transfer.

The Director of Finance shall provide prompt notification to the chairperson of the Joint Legislative Budget Committee if it becomes necessary to pay interest costs from the appropriation made in this section.

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

Reduced state revenues are causing a severe crisis in the General Fund. To alleviate this financial problem, money in other funds or accounts must be transferred to the General Fund pursuant to the provisions of Section 16310 of the Government Code. To provide funds to cover the interest costs for this borrowing, it is necessary that this act take effect immediately.

CHAPTER 847

An act to amend Sections 72001 and 92000 of, and to add Section 89005.5 to, the Education Code, relating to postsecondary education.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 72001 of the Education Code is amended to read:

72001. (a) The name "California community colleges" is the property of the state. No person shall, without permission of the Board of Governors of the California community colleges, use this name, or any abbreviation of it, or any name of which these words are a part in any of the following ways:

(1) To designate any business, social, political, religious, or other organization, including but not limited to, any corporation, firm, partnership, association, group, activity or enterprise.

(2) To imply, indicate or otherwise suggest that any such organization, or any product or service of such organization is connected or affiliated with, or is endorsed, favored or supported by, or is opposed by one or more California community colleges, the Board of Governors of the California community colleges, or the office of the Chancellor of the California community colleges.

(3) To display, advertise, or announce these names publicly at or in connection with any meeting, assembly, or demonstration, or any propaganda, advertising or promotional activity of any kind which has for its purpose or any part of its purpose the support, endorsement, advancement, opposition or defeat of any strike, lockout, or boycott or of any political, religious, sociological, or economic movement, activity or program.

The provisions of this section shall not preclude the use of the name "California community colleges" by any person or organization otherwise subject to this section using the name immediately prior to March 4, 1972.

(b) Nothing in this section shall interfere with or restrict the right of any person to make a true and accurate statement in the course of stating his experience or qualifications for any academic, governmental, business, or professional credit or enrollment, or in connection with any academic, governmental, professional or other employment whatsoever.

(c) Every person violating provisions of this section is guilty of a misdemeanor.

SEC. 2. Section 89005.5 is added to the Education Code, to read:

89005.5. (a) The name "California State University" is the property of the state. No person shall, without the permission of the Trustees of the California State University, use this name, or any

abbreviation of it or any name of which these words are a part, in any of the following ways:

(1) To designate any business, social, political, religious, or other organization, including, but not limited to, any corporation, firm, partnership, association, group, activity, or enterprise.

(2) To imply, indicate or otherwise suggest that any such organization, or any product or service of such organization, is connected or affiliated with, or is endorsed, favored, or supported by, or is opposed by the California State University.

(3) To display, advertise, or announce this name publicly at, or in connection with, any meeting, assembly, or demonstration, or any propaganda, advertising, or promotional activity of any kind which has for its purpose or any part of its purpose the support, endorsement, advancement, opposition, or defeat of any strike, lockout, or boycott or of any political, religious, sociological, or economic movement, activity, or program.

(b) However, nothing in this section shall interfere with, or restrict the right of, any person to make a true and accurate statement of his or her present or former relationship or connection with, his or her employment by, or his or her enrollment in, the California State University in the course of stating his or her experience or qualifications for any academic, governmental, business, or professional credit or enrollment, or in connection with any academic, governmental, professional, or other employment whatsoever.

(c) Every person violating the provisions of this section is guilty of a misdemeanor.

SEC. 3. Section 92000 of the Education Code is amended to read:

92000. (a) The name "University of California" is the property of the state. No person shall, without the permission of the Regents of the University of California, use this name, or any abbreviation of it or any name of which these words are a part, in any of the following ways:

(1) To designate any business, social, political, religious, or other organization, including, but not limited to, any corporation, firm, partnership, association, group, activity, or enterprise.

(2) To imply, indicate or otherwise suggest that any such organization, or any product or service of such organization is connected or affiliated with, or is endorsed, favored, or supported by, or is opposed by the University of California.

(3) To display, advertise, or announce this name publicly at, or in connection with, any meeting, assembly, or demonstration, or any propaganda, advertising, or promotional activity of any kind which has for its purpose or any part of its purpose the support, endorsement, advancement, opposition, or defeat of any strike, lockout, or boycott or of any political, religious, sociological, or economic movement, activity, or program.

(b) Nothing in this section shall interfere with or restrict the right of any person to make a true and accurate statement of his or her

present or former relationship or connection with, his or her employment by, or his or her enrollment in, the University of California in the course of stating his or her experience or qualifications for any academic, governmental, business, or professional credit or enrollment, or in connection with any academic, governmental, professional, or other employment whatsoever.

(c) Every person violating the provisions of this section is guilty of a misdemeanor.

SEC. 4. The Legislature finds and declares that when the Education Code was reorganized by Chapter 1010 of the Statutes of 1976, the word "chapter" was inadvertently used in Sections 69573, 69588, and 69611 of the Education Code. The word "chapter" in each of those sections should have been changed to "article."

The Legislature further finds and declares that former Section 69611 of the Education Code, as added by Chapter 1010 of the Statutes of 1976, was intended to repeal only Article 6 (commencing with Section 69600) of Chapter 2 of Part 42 of the Education Code on June 30, 1980, and was not intended to repeal all of Chapter 2 (commencing with Section 69500) of Part 42.

Therefore, former Section 69611 of the Education Code shall be construed to have repealed Article 6 (commencing with Section 69600) of Chapter 2 of Part 42 of the Education Code, effective June 1, 1980, and shall not be construed to have repealed any of the other provisions of Chapter 2 (commencing with Section 69500) of Part 42.

SEC. 5. 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 848

An act to amend Section 2016 of the Code of Civil Procedure, relating to depositions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 2016 of the Code of Civil Procedure is amended to read:

2016. (a) Any party may take the testimony of any person,

including a party, by deposition upon oral examination or written interrogatories for the purpose of discovery or for use as evidence in the action or for both purposes. Such depositions may be taken in an action at any time after the service of the summons or in a special proceeding after the service of the petition or after the appearance of the defendant or respondent. After commencement of the action or proceedings, the deposition 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 the plaintiff within 20 days after service of the summons or petition on, or appearance of, the defendant or respondent. The attendance of witnesses or the production of books, documents, or other things at depositions may be compelled by the use of subpoena as provided in Chapter 2 (commencing with Section 1985), Title 3, Part 4 of this code.

(b) Unless otherwise ordered by the court as provided by subdivision (b) or (d) of Section 2019 of this code, the deponent may be examined regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the examining party, or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. It is not ground for objection that the testimony will be inadmissible at the trial if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence. All matters which are privileged against disclosure upon the trial under the law of this state are privileged against disclosure through any discovery procedure. This article shall not be construed to change the law of this state with respect to the existence of any privilege, whether provided for by statute or by judicial decision.

The work product of an attorney shall not be discoverable unless the court determines that denial of discovery will unfairly prejudice the party seeking discovery in preparing his claim or defense or will result in an injustice, and any writing that reflects an attorney's impressions, conclusions, opinions, or legal research or theories shall not be discoverable under any circumstances.

(c) Examination and cross-examination of deponents may proceed as permitted at the trial.

(d) At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a party to the record of any civil action or proceeding or of a person for whose immediate benefit said action or proceeding is prosecuted or defended, or of anyone who at the

time of taking the deposition was an officer, director, superintendent, member, agent, employee, or managing agent of any such party or person may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (i) that the witness is unavailable as a witness within the meaning of Section 240 of the Evidence Code, (ii) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used, or (iii) that the witness resides more than 150 miles from the place of the trial, hearing, or proceeding.

(4) Subject to the requirements of this section, a party may offer in evidence all or any part of a deposition, and if such party introduces only part of such deposition, any party may introduce any other parts.

Substitution of parties does not affect the right to use depositions previously taken; and, when an action in any court of the United States or of any state has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

(e) Subject to the provisions of subdivision (c) of Section 2021 of this code, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(f) A party shall not be deemed to make a person his own witness for any purpose by taking his deposition. Except where the deposition is used under the provisions of paragraph (2) of subdivision (d) of this section, the introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent, or for explaining or clarifying portions of the said deposition offered by an adverse party, makes the deponent the witness of the party introducing the deposition, as to the portions of the deposition introduced by said party. At the trial or hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by another party.

(g) It is the policy of this state (i) to preserve the rights of attorneys to prepare cases for trial with that degree of privacy necessary to encourage them to prepare their cases thoroughly and to investigate not only the favorable but the unfavorable aspects of such cases and (ii) to prevent an attorney from taking undue advantage of his adversary's industry or efforts.

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:

Legislation in 1981 (Chapter 184) eliminated distance within the state as a basis for exempting witnesses who reside in the state from being compelled to attend a proceeding as a witness which, in turn, was a basis for permitting a party to use a deposition for any purpose. In order to expedite authorizing a party as a matter of law to use for any purpose the deposition of a person who resides more than 150 miles from the place of the proceeding, it is necessary that this act take effect immediately.

CHAPTER 849

An act to amend Sections 16512.5 and 16536 of the Welfare and Institutions Code, and to repeal Section 5 of Chapter 1334 of the Statutes of 1978, relating to child abuse.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 16512.5 of the Welfare and Institutions Code is amended to read:

16512.5. For reimbursement of the sum spent in each demonstration county for child protective services in accordance with the county plan certified by the department pursuant to Section 16502, each county shall be allocated a sum to reimburse it for the costs of such services.

Funds may be allocated to demonstration counties on a periodic basis determined by the department.

It is the intention of the Legislature that the funds allocated pursuant to this section may be utilized for families who qualify as actual or potential recipients of public assistance under aid to families with dependent children or families who are not linked to or qualified for such aid; provided, that the county shall seek reimbursement from parents who voluntarily request such services on a sliding scale based upon income which shall be determined on a statewide basis by the department.

SEC. 2. Section 16536 of the Welfare and Institutions Code is amended to read:

16536. For reimbursement of the sum spent in each demonstration county for family reunification services in accordance with the county plan certified by the department pursuant to Section 16529, each demonstration county shall be allocated a sum to reimburse it for the costs of such services.

Any funds not expended for such salaries and expenses shall be utilized for family reunification services.

Funds may be allocated to demonstration counties on a periodic basis which shall be determined by the department.

It is the intention of the Legislature that funds allocated pursuant to this section may be utilized for families who qualify as actual or potential recipients of public assistance under aid to families with dependent children or families who are not linked to, or qualified for, such aid; provided, that the demonstration county shall seek reimbursement from parents on a sliding scale based upon income which shall be determined on a statewide basis by the department.

SEC. 3. Section 5 of Chapter 1334 of the Statutes of 1978 is repealed.

SEC. 4. The amendments to Sections 16512.5 and 16536 of the Welfare and Institutions Code are declaratory of preexisting legislative intent and policy as expressed in Section 8 of Chapter 1311 of the Statutes of 1980 and these sections shall be deemed to have been amended in this manner on September 30, 1980, the effective date of Chapter 1311 of the Statutes of 1980.

CHAPTER 850

An act to add Section 21605 to the Public Utilities Code, relating to aviation.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 21605 is added to the Public Utilities Code, to read:

21605. No proprietor of any permitted airport which is open to the public and has received public funds shall close or suspend operation of the airport without notifying the department in writing 60 days prior to the intended closure or suspension of operations. On its own motion or upon the request of an affected or interested person, the department may conduct a public hearing to determine the impact of the intended closure or suspension of operations, both economically and on the entire state air transportation system. The department may take appropriate action to assist the proprietor in keeping the airport operational and open for public use.

SEC. 2. Funds shall be appropriated from the Aeronautics Account in the State Transportation Fund to the Controller for allocation and disbursement 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.

CHAPTER 851

An act to add and repeal Sections 45139 and 88038 of the Education Code, and to add and repeal Section 20819 of the Government Code, relating to classified public school employees.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 45139 is added to the Education Code, to read:

45139. Notwithstanding any other provision of this part, the governing board of a school district may establish regulations which allow their classified employees to reduce their workload from full-time to part-time duties.

The regulations shall include, but shall not be limited to, the following, if classified employees wish to reduce their workload and maintain retirement benefits pursuant to Section 20819 of the Government Code:

(a) The classified employee shall have reached the age of 55 prior to reduction in workload.

(b) The classified employee shall have been employed full time in a classified position for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the classified employee shall have been employed full time in a classified position for a total of at least five years without a break in service.

(d) The option of part-time employment shall be exercised at the request of the classified employee and can be revoked only with the mutual consent of the employer and the classified employee.

(e) The classified employee shall be paid a salary which is the pro rata share of the salary he or she would be earning had he or she not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he or she makes the payments that would be required if he or she remained in full-time employment.

The classified employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time classified employee.

(f) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the classified employee's contract of employment during his or her final year of service in a full-time classified position.

(g) The period of the part-time classified employment shall not exceed five years.

(h) The period of the part-time classified employment shall not

extend beyond the end of the school year during which the classified employee reaches his or her 70th birthday.

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 July 1, 1989, deletes or extends such date.

SEC. 2. Section 88038 is added to the Education Code, to read:

88038. Notwithstanding any other provision of this part, the governing board of a community college district may establish regulations which allow their classified employees to reduce their workload from full-time to part-time duties.

The regulations shall include, but shall not be limited to, the following, if classified employees wish to reduce their workload and maintain retirement benefits pursuant to Section 20819 of the Government Code:

(a) The classified employee shall have reached the age of 55 prior to reduction in workload.

(b) The classified employee shall have been employed full time in a classified position for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the classified employee shall have been employed full time in a classified position for a total of at least five years without a break in service.

(d) The option of part-time employment shall be exercised at the request of the classified employee and can be revoked only with the mutual consent of the employer and the classified employee.

(e) The classified employee shall be paid a salary which is the pro rata share of the salary he or she would be earning had he or she not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he or she makes the payments that would be required if he or she remained in full-time classified employment.

The classified employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time classified employee.

(f) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the classified employee's contract of employment during his or her final year of service in a full-time classified position.

(g) The period of the part-time classified employment shall not exceed five years.

(h) The period of the part-time classified employment shall not extend beyond the end of the school year during which the classified employee reaches his or her 70th birthday.

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

20819. Notwithstanding any other provision of this part, a school

member employed on a part-time basis on and after January 1, 1983, shall, for such period of part-time employment, receive the credit he would receive if he or she was employed on a full-time basis and have his or her retirement allowance, as well as any other benefits he or she is entitled to under this part, based upon the salary that he or she would have received if employed on a full-time basis if he or she and his or her employer both contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. Prior to the reduction of a classified employee's workload under this section, the school employer personnel responsible for the administration of this program shall verify the eligibility of the applicant for the reduced workload program. This section shall be applicable only to school members who are classified employees of school employers or community college districts and who have met the criteria provided in Sections 45139 and 88038 of the Education Code.

The employer shall maintain the necessary records to separately identify each classified employee receiving credit pursuant to this section.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in combination, offer the actuary's best estimate of anticipated experience under the system.

The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost, plus (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

This section shall 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. 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.

CHAPTER 852

An act to amend Section 12302.1 of, and to add Section 12314 to, the Welfare and Institutions Code, relating to in-home supportive services.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 12302.1 of the Welfare and Institutions Code is amended to read:

12302.1. (a) Contracts entered into by a county under Section 12302 shall be for terms not exceeding two years. In the event of a two-year contract, the county, at the end of the first contract term, may renew the contract for a second term not exceeding one year. The rate of reimbursement shall be negotiated consistent with regulations promulgated by the State Department of Social Services. For any extended contract, the rate shall reflect, but is not limited to the following financial considerations:

(1) Actual expenditures by the contractor as documented during the first contract term and approved by the state.

(2) Changes in federal, state, or county program requirements.

(3) Federal and state minimum wage and contractual step merit increases.

(4) Statutory taxes.

(5) Insurance costs.

(6) Other reasonable costs over which the contracting parties have no control.

The regulations promulgated by the department shall also establish standards governing acceptable contract provisions, the methods used to advertise, procure, select and award such contracts, and the procedures used to amend, renew, or extend an existing contract with the same contractor including, in addition to rate changes, any other change in other terms of the contract.

The county may temporarily extend the contract in accordance with the department's regulations in order to assure continuity of service, quality of care, or the competitive bid process.

All contracts awarded, extended or renewed pursuant to this section and all amendments to such contracts shall be subject to the prior review and approval of the department. No contract shall take effect until approved in writing by the State Department of Social Services.

(b) All contracts shall, in addition to including provisions required by Section 12303, be subject to the following:

(1) Prior to initiating a contract or contracts pursuant to Section 12302, the county shall publicize its intention to solicit bids to enter into such contracts.

(2) When the county has selected one or more contract proposals for tentative acceptance or intends to renew an existing contract, the county board of supervisors shall conduct a hearing on the proposed contract, contracts, or renewal, which shall be at a regularly scheduled meeting of the board of supervisors, and open to the public.

(3) Public findings based on the public hearing shall be made available to interested parties.

(4) No contract for services provided under this article shall take effect until 30 calendar days have elapsed from the time of the public hearing required under this section.

(5) The county board of supervisors may award one or more service contracts pursuant to this article based upon the fiscal responsibility of the service providers and experience of the service providers in providing services pursuant to this article. Nothing in this subdivision, however, shall preclude a requirement that contracts under this section be awarded on a competitive bid basis.

(6) The county, to insure fiscal and program compliance, shall review the contract during the contract term. Such review may include, but shall not be limited to, a fiscal audit.

SEC. 2. Section 12314 is added to the Welfare and Institutions Code, to read:

12314. It is the intent of the Legislature that the department conduct a pilot program, of not less than three years' duration, to comprehensively assess the comparative cost effectiveness and quality of care of both contract and individual provider modes of service.

The pilot project will test alternative methods to maximize delivery of services under this article within budget appropriations. The project may also investigate the feasibility of the "capitation" method of payment in any or all of the counties participating in the project. County participation shall be on a voluntary basis.

The department shall have the authority, if necessary, to reallocate available funds as necessary to ensure the success of the project within the overall state budget.

The director may issue waivers, as necessary, pursuant to Section 18204.

CHAPTER 853

An act to amend Section 35780.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 35780.5 of the Vehicle Code is amended to read:

35780.5. The Department of Transportation or local authorities, with respect to highways under their respective jurisdictions, may, upon application in writing, issue a special permit in writing authorizing the applicant to operate or move a vehicle carrying a load, lying in the horizontal position, of trusses as defined in Section 657, one-piece roof, floor, or wall units, or flat or formed metal products, of first manufacture, that are used as single width components in the manufacture of a finished product, that exceeds the maximum width specified by this code, if the load does not exceed 12 feet in width and the permittee complies with the regulations of the Department of Transportation or local authorities, as the case may be, governing the transportation of extra-legal loads.

CHAPTER 854

An act to amend Sections 10081.5 and 10237.1 of, and to add Section 10233.1 to, the Business and Professions Code, relating to real estate.

[Approved by Governor September 9, 1982 Filed with Secretary of State September 10, 1982]

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

SECTION 1. Section 10081.5 of the Business and Professions Code is amended to read:

10081.5. Whenever the commissioner believes from evidence satisfactory to him that any real estate licensee has violated or is about to violate, the provisions of Section 10145, the commissioner may bring an action in the name of the people of the State of California, in the superior court of the State of California, to enjoin the licensee from continuing the violation or engaging therein or doing any act or acts in furtherance thereof.

In the event the commissioner has conducted an audit which reflects commingling or conversion of trust funds in excess of ten thousand dollars ($10,000), the court may enter an order restraining the licensee from doing any act or acts in furtherance thereof, and from further exercising the privileges of the license pending further order of the court; provided that a hearing shall be held on the order within five days after the date thereof.

After the hearing in the manner provided by law, an order may be entered appointing a receiver, or such other order as the court may deem proper.

A receiver appointed by the court pursuant to this section may, with the approval of the court, exercise all of the powers of the

licensee or its officers, directors, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy of the licensee.

SEC. 2. Section 10233.1 is added to the Business and Professions Code, to read:

10233.1. If a real estate broker in servicing a real property sales contract or a promissory note secured directly or collaterally by a lien on real property for the mortgagee, beneficiary, or owner of the note or contract, causes funds other than funds received from the obligor of the note or contract to be applied toward a payment to protect the security of the note or contract being serviced, including the payment of debt service on an obligation secured by the same real property having priority over the mortgage or deed of trust securing the promissory note that the broker is servicing, the broker shall, not later than 10 days after making any such payment, give written notice to the mortgagee, beneficiary, or owner of the date and amount of the payment, to whom made, the source of funds, and the reason for making the payment.

SEC. 3. Section 10237.1 of the Business and Professions Code is amended to read:

10237.1. The term real property security as used in this article means:

(a) An agreement made in connection with the arranging of a loan evidenced by a promissory note secured directly or collaterally by a lien on real property or made in connection with the sale of a promissory note secured directly or collaterally by a lien on real property or a real property sales contract wherein the real property securities dealer or his principal expressly or impliedly agrees to do any of the following:

1. Guarantee the note or contract against loss at any time, or

2. Guarantee that payments of principal or interest will be paid in conformity with the terms of the note or contract, or

3. Assume any payments necessary to protect the security of the note or contract, or

4. Accept, from time to time, partial payments for funding the loan or purchasing the note or contract, or

5. Guarantee a specific yield or return on the note or contract, or

6. Pay with his own funds any interest or premium for a period prior to actual purchase and delivery of the note or contract, or

7. Repurchase the note or contract.

(b) A promissory note secured directly or collaterally by a lien on real property or a real property sales contract on which the real estate broker who arranged the loan evidenced by the note, negotiated the sale of a note or contract or who is servicing the note or contract for the owner, knowingly causes any payment on the note or contract to be made to the owner, directly or indirectly, with funds other than funds of the obligor while the obligor is delinquent on the note or contract.

Payments of principal or interest made in good faith to the owner

by a broker, when made after receipt by the broker of the obligor's remittance, shall not be deemed a payment with funds other than the funds of the obligor.

(c) One of a series of promotional notes secured by liens on separate parcels of real property in one subdivision or in contiguous subdivisions.

(d) One of a series of real property sales contracts pertaining to separate parcels of real property in one subdivision or in contiguous subdivisions, all of which are executed by one person or persons associated together as owners.

Except as provided in subdivisions (a) or (b), performance of services in connection with loans or promissory notes secured directly or collaterally by a lien on real property or a real property sales contract, as agent for and at the direction of the lender, borrower, or purchaser, including but not limited to the payment of taxes, debt service on an obligation secured by the same real property having priority over any mortgage or deed of trust securing the promissory note serviced by the agent, insurance premiums or costs of foreclosure, if all such costs (excluding routine office expenses) of such services are paid by or payable by borrower, lender, or purchaser shall not be construed to be a real property security as defined in subdivision (a) of this section, or as a security for the purposes of the Corporate Securities Act.

As used in subdivision (c) "promotional note" means a promissory note secured by a trust deed executed on unimproved real property, or executed after construction of an improvement of the property but before the first sale of the property as so improved, or executed as a means of financing the first purchase of the property as so improved, and which is subordinate or which by its terms may become subordinate to any other trust deed on the property; provided that the term "promotional note" does not include (i) a note which was executed in excess of three (3) years prior to being offered for sale or (ii) a note secured by a first trust deed on real property in a subdivision, which evidences a bona fide loan made in connection with the financing of the usual costs of the development of a residential, commercial, or industrial building or buildings on the property under a written agreement providing for the disbursement of the loan funds as costs are incurred or in relation to the progress of the work and providing for title insurance insuring the priority of the security as against mechanic's and materialmen's liens or for the final disbursement of at least 10 percent of the loan funds after the expiration of the period for the filing of mechanics' and materialmen's liens.

As used in subdivision (d), the term "real property sales contract" does not include a contract executed more than three years prior to being offered for sale.

The term real property security does not include any bond or debenture or note which is one of a series of notes of equal priority secured by an interest in the same real property.

CHAPTER 855

An act to add and repeal Chapter 6 (commencing with Section 12500) of Division 9 of the Elections Code, relating to elections.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Chapter 6 (commencing with Section 12500) is added to Division 9 of the Elections Code, to read:

CHAPTER 6. FAIR CAMPAIGN PRACTICES

Article 1. General Intent

12500. The Legislature hereby declares that the purpose of this chapter is to encourage every candidate for public office in this state to subscribe to the Code of Fair Campaign Practices.

It is the ultimate intent of the Legislature that every candidate for public office in this state who subscribes to the Code of Fair Campaign Practices will follow the basic principles of decency, honesty, and fair play in order that, after vigorously contested, but fairly conducted campaigns, the citizens of this state may exercise their constitutional right to vote, free from dishonest and unethical practices which tend to prevent the full and free expression of the will of the voters.

The purpose in creating the Code of Fair Campaign Practices is to give voters guidelines in determining fair play and to encourage candidates to discuss issues instead of untruths or distortions.

Article 2. Definitions

12510. Unless otherwise indicated, the definitions set forth in this article shall govern the interpretation of this chapter.

12511. "Campaign advertising or communication" means a communication authorized by a candidate or a candidate's controlled committee, as defined in Section 82016 of the Government Code, or by a committee making independent expenditures, as defined in Section 82031 of the Government Code, for the purpose of advocating the election or defeat of a qualified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general, public, political advertising.

12512. "Candidate for public office" means an individual who has qualified to have his or her name listed on the ballot of any election, or who has qualified to have written votes on his or her behalf counted by election officials, for nomination for, or election to, any

state, regional, county, municipal, or district office which is filled at an election. The provisions of this chapter do not apply to candidates for federal office.

12513. "Code" means the Code of Fair Campaign Practices.

Article 3. Code of Fair Campaign Practices

12520. At the time an individual files his or her declaration of candidacy, nomination papers, or any other paper evidencing an intention to be a candidate for public office, the county clerk, shall give the individual a blank form of the Code of Fair Campaign Practices and a copy of the provisions of this chapter. The county clerk shall inform each candidate for public office that subscription to the code is voluntary.

In the case of a committee making an independent expenditure within the meaning of Section 12511, the Secretary of State shall provide a blank form and a copy of the provisions of this chapter to the individual filing, in accordance with Title 9 (commencing with Section 81000) of the Government Code, an initial campaign statement on behalf of the committee.

The text of the code shall read, as follows:

CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of California has a moral obligation to observe and uphold, in order that, after vigorously contested, but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammeled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

(1) I SHALL CONDUCT my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponents or political parties which merit such criticism.

(2) I SHALL NOT USE OR PERMIT the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.

(3) I SHALL NOT USE OR PERMIT any appeal to negative prejudice based on race, sex, religion, national origin, physical health status, or age.

(4) I SHALL NOT USE OR PERMIT any dishonest or unethical practice which tends to corrupt or undermine our American system of free elections, or which hampers or prevents the full and free expression of the will of the voters including acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote, or voting.

(5) I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees.

(6) I SHALL IMMEDIATELY AND PUBLICLY REPUDIATE support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics which I condemn. I shall accept responsibility to take firm action against any subordinate who violates any provision of this code or the laws governing elections.

(7) I SHALL DEFEND AND UPHOLD the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of California or treasurer or chairman of a committee making any independent expenditures, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Date Signature

12522. The Secretary of State shall print, or cause to be printed, blank forms of the code. The Secretary of State shall supply the forms to the county clerks in quantities and at times requested by the clerks.

12523. The county clerk shall accept, at all times prior to the election, all completed forms which are properly subscribed to by a candidate for public office and shall retain them for public inspection until 30 days after the election.

12524. Every code subscribed to by a candidate for public office pursuant to this chapter is a public record open for public inspection.

12525. In no event shall a candidate for public office be required to subscribe to or endorse the code.

12526. This chapter shall be operative only until January 1, 1989, and as of that date is repealed.

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 856

An act to amend Section 17921.3 of the Health and Safety Code, relating to buildings.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 17921.3 of the Health and Safety Code is amended to read:

17921.3. After January 1, 1983, all new buildings constructed in this state shall use water closets and associated flushometer valves, if any, which are water-conservation water closets as defined by American National Standards Institute Standard A112.19.2, and urinals and associated flushometer valves, if any, that use less than an average of 1½ gallons per flush. Blowout water closets and associated flushometer valves are exempt from the requirements of this section. All water closets, urinals, and associated flushometer valves installed in new structures after January 1, 1983, shall be approved by the department as meeting adequate standards of safety and sanitation. Such requirements shall only be applicable to new additions to, or renovations of, existing buildings if compliance with the requirements of this section will not require substantial modification of the existing plumbing system. In satisfaction of the requirements of this section and subject to the provisions of Section 18930, the department shall permit the installation of tank-type water closets equipped with devices which are found by the department to meet applicable performance standards. The department shall periodically publish a list of acceptable water closets, urinals, flushometer valves, and devices to reduce water consumption.

A manufacturer may sell water closets, urinals, and flushometer valves in this state which do not meet the foregoing requirements in a quantity sufficient to serve the need for water closet or urinal installation or replacement in structures built prior to January 1, 1983, or when authorized by the local enforcement agency.

Any local enforcement agency may allow the use of standard flush toilets, or urinals when, in the opinion of the local agency, the configuration of the building drainage system requires a greater quantity of water to adequately flush the system.

This section shall not apply in any local jurisdiction, area, or region of the state subject to waste discharge requirements imposed pursuant to Article 4 (commencing with Section 13260) of Chapter 4 of Division 7 of the Water Code when the local enforcement agency determines that the waste water discharges would exceed such waste discharge requirements if this section was made applicable.

Subject to the provisions of Section 18930, the requirements prescribed by this section may be suspended for a specified period of time by a regulation adopted by the department when the department finds that there is an inadequate supply, including a choice of styles or colors for the consumer, of water closets or urinals specified in this section to meet the needs of new construction, or such water closets and urinals are not available at reasonable prices

as compared to water closets and urinals not complying with the requirements of 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 857

An act to add Section 14108.2 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 14108.2 is added to the Welfare and Institutions Code, to read:

14108.2. Except as provided by Section 14108 and Section 14108.1, any recipient of services under this chapter who is residing in a long-term care facility shall be permitted to be temporarily absent from such facilities for up to 18 days per year, not including days of bed hold for acute hospitalization. The department may approve additional days of leave on an individual basis, not to exceed 12 days per year, exclusive of days of bed hold for acute hospitalization.

All such leaves of absence shall be in accordance with an individual patient care plan as approved by the attending physician. The director shall adopt regulations establishing the conditions under which additional leave days shall be authorized. The director may establish reasonable limits on the duration of any period of absence.

CHAPTER 858

An act to amend Section 3 of Chapter 693 of the Statutes of 1981, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 3 of Chapter 693 of the Statutes of 1981 is amended to read:

Sec. 3. Pursuant to Section 5096.27 of the Public Resources Code, the County of San Benito is hereby authorized to transfer title to a parcel in the southwestern portion of Bolado Park, identified by the San Benito County Assessor as Parcel No. 25-22-04 and consisting of approximately 80 acres which was acquired with the grant of state funds appropriated in Item 341(cc) of the Budget Act of 1967 (Chapter 500, Statutes of 1967), together with approximately 15 acres additional contiguous land of the county identified by the county board of supervisors, to any private party. The proceeds of the sale under this section shall be deposited in the State Beach, Park, Recreational, and Historical Facilities Fund of 1964.

SEC. 2. (a) The sum of thirty-five thousand dollars ($35,000) is hereby appropriated from the Off-Highway Vehicle Fund to the Department of Parks and Recreation for a study to be prepared by, or under contract let by, the department of the feasibility of acquiring and developing the Martin Ranch near Cantua Creek in Fresno County as an off-highway motor vehicle recreation area and to conduct an appraisal of that property.

(b) The study shall consider and evaluate all of the following:

(1) Whether the site should be operated by the Department of Parks and Recreation as a unit of the state park system or by a party or agency other than the department.

(2) Recommendation of the most desirable boundaries of the area.

(3) The potential for providing other forms of public recreation appropriate to, or not in conflict with, the off-highway motor vehicle recreational use, including, but not limited to, hunting.

(4) Evaluation of the continuation of grazing on the land.

(5) The potential for a more direct public access road from Fresno County to New Indria and Clear Creek.

(6) The suitability of the location of the project relative to urban centers.

(7) Recommendation of appropriate site protection and commemoration at Arroyo Cantua and Joaquin Rocks concerning events relating to Joaquin Murrietta and other Mexican Horsemen.

(c) In conducting the study, recreational off-highway motor vehicle users, other interested members of the public, and affected governmental agencies shall be consulted, and at least one public hearing shall be conducted in Fresno County.

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 facilitate the acquisition and development of urgently needed lands for parks and recreation at the earliest possible time,

it is necessary that this act take effect immediately.

CHAPTER 859

An act to amend Sections 1200 and 1201 of the Health and Safety Code, relating to health.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 1200 of the Health and Safety Code is amended to read:

1200. As used in this chapter, "clinic" means an organized outpatient health facility which provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility. Nothing in this section shall be construed to prohibit the provision of nursing services in a clinic licensed pursuant to this chapter. In no case shall a clinic be deemed to be a health facility subject to the provisions of Chapter 2 (commencing with Section 1250) of this division. A place, establishment, or institution which solely provides advice, counseling, information, or referrals on the maintenance of health or on the means and measures to prevent or avoid sickness, disease, or injury, where such advice, counseling, information, or referrals does not constitute the practice of medicine, surgery, dentistry, optometry, or podiatry, shall not be deemed a clinic for purposes of this chapter.

References in this chapter to "primary care clinics" shall mean and designate all the types of clinics specified in subdivision (a) of Section 1204, including community clinics, free clinics, and employees' clinics. References in this chapter to specialty clinics shall mean and designate all the types of clinics specified in subdivision (b) of Section 1204, including surgical clinics, chronic dialysis clinics, and rehabilitation clinics.

SEC. 2. Section 1201 of the Health and Safety Code is amended to read:

1201. "License" means a basic permit to operate a clinic. A license may only be granted to a clinic of a type enumerated in Section 1204 or 1204.1, and such license shall not be transferable. However, the issuance of a license upon a change of ownership shall not of itself constitute a project within the meaning of Section 437.10.

CHAPTER 860

An act to amend Section 12500 of the Business and Professions Code, relating to weights and measures.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. 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 meet 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, 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, or the determination of charges for the transmission of letters or parcels of less than 150 pounds.

CHAPTER 861

An act to amend Sections 1155 and 1156 of the Government Code, relating to public employees.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 1155 of the Government Code is amended to read:

1155. Public officers and employees, other than state officers and employees, may authorize wage and salary deductions for deposit into an account or accounts with a state or federal savings and loan association in this state, or for the purchase of shares in or the payment of money to any regularly chartered credit union. Auditors, treasurers and other disbursing officers of any public agency other than a state agency are authorized to recognize and act upon such wage or salary assignments , and may charge a fee to the institution in an amount which is determined to be sufficient to reimburse the public agency for the costs of arranging these deductions, if any.

SEC. 1.5. Section 1155 of the Government Code is amended to read:

1155. Public officers and employees, other than state officers and employees, may authorize wage and salary deductions for deposit into an account or accounts with a state or federal savings and loan association in this state, for deposit into an account or accounts with a state chartered bank or national bank having its principal office in this state, or for the purchase of shares in or the payment of money to any regularly chartered credit union. Auditors, treasurers, and other disbursing officers of any public agency other than a state agency are authorized to recognize and act upon such wage or salary assignments, and may charge a fee to the institution in an amount which is determined to be sufficient to reimburse the public agency for the costs of arranging these deductions, if any.

SEC. 2. Section 1156 of the Government Code is amended to read:

1156. State officers and employees may authorize deductions to be made from their salaries or wages for the payment of:

(a) Premiums on any health benefits plan provided for under Part 5 (commencing with Section 22751) of Division 5 of Title 2.

(b) Premiums on National Service Life Insurance or United States Government Converted Insurance.

(c) Dues in any bona fide association. Bona fide association means an organization which is comprised of employees and former employees of agencies of the State of California and the California State University and Colleges, and which does not have as one of its purposes representing such employees in their employer-employee relations with the state.

(d) Shares or obligations to any regularly chartered credit union.

(e) Recurrent fees or charges payable to a state agency under a collection plan approved by the Director of General Services and the State Controller.

(f) Premiums on any insurance policy or payments for any other membership benefit program sponsored by an employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

(g) Payments for insurance or other employee benefit programs sponsored by a state agency under appropriate statutory authority.

(h) Membership dues, initiation fees, and general assessments of any employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

(i) Passes, tickets, or tokens issued for a period of one month, or more, by a public transportation system.

(j) Deposits into an account or accounts with a state or federal savings and loan association in this state. The state may charge a fee to the institution in an amount which is determined to be sufficient to reimburse the state for the costs of arranging these deductions, if any.

SEC. 2.5. Section 1156 of the Government Code is amended to read:

1156. State officers and employees may authorize deductions to be made from their salaries or wages for the payment of:

(a) Premiums on any health benefits plan provided for under Part 5 (commencing with Section 22751) of Division 5 of Title 2.

(b) Premiums on National Service Life Insurance or United States Government Converted Insurance.

(c) Dues in any bona fide association. Bona fide association means an organization which is comprised of employees and former employees of agencies of the State of California and the California State University and Colleges, and which does not have as one of its purposes representing such employees in their employer-employee relations with the state.

(d) Shares or obligations to any regularly chartered credit union.

(e) Recurrent fees or charges payable to a state agency under a collection plan approved by the Director of General Services and the State Controller.

(f) Premiums on any insurance policy or payments for any other membership benefit program sponsored by an employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

(g) Payments for insurance or other employee benefit programs sponsored by a state agency under appropriate statutory authority.

(h) Membership dues, initiation fees, and general assessments of any employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

(i) Passes, tickets, or tokens issued for a period of one month, or more, by a public transportation system.

(j) Deposits into an account or accounts with a state or federal savings and loan association in this state. The state may charge a fee to the institution in an amount which is determined to be sufficient to reimburse the state for the costs of arranging these deductions, if

any.

(k) Deposits into an account with a state chartered bank or national bank having its principal office in this state.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 3204 are both chaptered and become effective January 1, 1983, both bills amend Section 1155 of the Government Code, and this bill is chaptered after Assembly Bill 3204, 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 3204 are both chaptered and become effective January 1, 1983, both amend Section 1155, and this bill is chaptered after Assembly Bill 3204, in which case Section 1 of this act shall not become operative.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 3204 are both chaptered and become effective January 1, 1983, both bills amend Section 1156 of the Government Code, and this bill is chaptered after Assembly Bill 3204, that the amendments to Section 1156 proposed by both bills be given effect and incorporated in Section 1156 in the form set forth in Section 2.5 of this act. Therefore, Section 2.5 of this act shall become operative only if this bill and Assembly Bill 3204 are both chaptered and become effective January 1, 1983, both amend Section 1156, and this bill is chaptered after Assembly Bill 3204, in which case Section 2 of this act shall not become operative.

SEC. 5. 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 862

An act relating to a program to develop an environmental information needs system, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. (a) It is the intent of the Legislature that the Department of Conservation may enter into a contract under the California Resources Information System program with the County of Ventura for an amount not to exceed twenty thousand dollars ($20,000) for expenditure during the 1982–83 fiscal year to continue

with the development of a computerized permit processing and geographic information system to expedite the environmental decisionmaking process required by the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, and other laws providing for the collection, storage, and transmittal of environmental information, as initiated under Chapter 1343 of the Statutes of 1978.

(b) The County of Ventura shall consult with the Department of Conservation's California Resources Information System program to assess the feasibility of incorporating computerized resources information developed by state agencies into the county's computerized information system.

(c) The County of Ventura shall render a progress report on the development of the computerized permit processing and geographic information system to the Department of Conservation not later than six months after the effective date of this act. A final report shall be submitted to the department not later than one year after that effective date. The final report shall include an evaluation of the feasibility of incorporating computerized resources information developed by state agencies into the county's computerized permit processing and geographic information system, recommendations for insuring greater sharing of computerized data between the state and counties, and other documentation as mutually agreed upon by the department and 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 to provide continuity in existing funding grants and to continue existing projects to develop a computerized information system utilizing remote sensing and other technology, it is necessary that this act take effect immediately.

CHAPTER 863

An act to amend Sections 20531.5, 20615, 21202.5, 21339, and 21365.6 of, and to add Section 75109.7 to, the Government Code, relating to public retirement systems.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 20531.5 of the Government Code is amended to read:

20531.5. The board may charge interest on the amount of any payment due and unpaid by a contracting agency until payment is

received. Interest shall be charged at a rate approximating the average rate received on moneys then being invested. The interest shall be deemed interest earnings in the year in which received.

SEC. 1.5. Section 20615 of the Government Code is amended to read:

20615. Notwithstanding any other provision of law, a contracting agency or school employer may pay all or a portion of the normal contributions required to be paid by a member. Such payments shall be reported simply as normal contributions and shall be credited to member accounts.

Nothing in this section shall be construed to limit the authority of a contracting agency or school employer to periodically increase, reduce, or eliminate the payment by the contracting agency or school employer of all or a portion of the normal contributions required to be paid by a member, as authorized by this section.

SEC. 2. Section 21202.5 of the Government Code is amended to read:

21202.5. For the purposes of determining eligibility for disability retirement, calculating disability retirement allowances, and determining and calculating death benefits, any member who, while in a membership category under which special benefits are provided by this part because a disability or death is determined industrial, and thereafter, while in a membership category under which special benefits are not so payable, is determined to be disabled because of the industrial injury or disease previously suffered or incurred or dies as a result thereof, shall be deemed to be, at the time of such disability retirement or death, in the membership category in which he was at the time he suffered the injury or incurred the disease.

The member will be eligible to receive the industrial disability retirement benefit only if he was disabled for performance of his duties in the position under the membership category where industrial disability benefits are payable, from the date of discontinuance of the state service in which the industrial injury or disease occurred to the time of application.

The effective date of retirement for purposes of this section shall be determined in accordance with Section 21200.1.

SEC. 3. Section 21339 of the Government Code is amended to read:

21339. Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or 4, involving life contingency of the beneficiary, may, if his beneficiary predeceases him, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of his lifetime under the optional settlement previously chosen applied to a lesser allowance during his remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary. The election shall be made within 12 months following the death of the beneficiary who predeceased the member or within

12 months following remarriage if a new spouse is named as beneficiary. In the case of such a member whose beneficiary died prior to January 1, 1975, the election shall be made prior to January 1, 1976.

SEC. 4. Section 21365.6 of the Government Code is amended to read:

21365.6. The surviving spouse of a member who has attained age 50, and who is eligible to receive an allowance pursuant to Section 21365.5, shall instead receive an allowance which is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected optional settlement 2. The surviving spouse of a member who has attained age 50, and who is eligible to receive a special death benefit in lieu of an allowance under Section 21365.5, may elect to instead receive an allowance which is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected optional settlement 2.

The allowance shall be payable as long as the surviving spouse lives or until remarriage. Upon the death or remarriage of the surviving spouse, the benefit shall be continued to minor children, as defined in Section 25 of the Civil Code, or a lump sum shall be paid as provided under circumstances specified in Section 21365.5 or in Sections 21364 and 21366, as the case may be.

The allowance provided by this section shall be paid in lieu of the basic death benefit, but the surviving spouse qualifying for the allowance may elect before the first payment on account of it to receive such basic death benefit in lieu of the allowance.

If the surviving spouse, who did not elect the option settlement 2 in lieu of the special death benefit, and who is receiving an allowance which is equal to the amount that the member would have received if the member had been retired for service on the date of death, and had elected optional settlement 2, did not have the opportunity to elect the basic death benefit in lieu of the monthly allowance, he or she shall have the opportunity to elect the balance of the basic death benefit. The balance of the basic death benefit will consist of the basic death benefit that would have been payable upon the death of the member less the amount of gross monthly allowances paid to date of election. The election must be filed with the board within 60 days after the receipt of notification by the surviving spouse.

This section shall only apply with respect to state members, other than school members, whose death occurs on and after July 1, 1976.

All references in this code to Section 21365.5 shall be deemed to include this section in the alternative.

SEC. 5. Section 75109.7 is added to the Government Code, to read:

75109.7. The board may assess a county a reasonable amount to cover costs incurred because of the county's failure to submit reports within 30 days of the date the reports are due. The payments of the assessments shall be credited to the Judges' Retirement Fund.

The board may charge interest on the amount of any payment due and unpaid by a county until payment is received. Interest shall be charged at a rate approximating the average rate received on moneys then being invested. The interest charged shall be deemed interest earnings in the year in which received.

SEC. 6. 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 864

An act to amend Section 8610.5 of the Government Code, relating to emergencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 8610.5 of the Government Code is amended to read:

8610.5. The Office of Emergency Services, in consultation with the State Department of Health Services and affected counties, shall investigate the consequences of a serious nuclear power plant accident for each of the four nuclear power plants in California with a generating capacity of 50 megawatts or more. This study, to be completed within six months of the effective date of this section, shall include the preparation of specific site maps showing the areas likely to be affected by such an accident. These maps shall delineate Emergency Planning Zones, which shall reflect inhalation, ingestion, and other radiation pathways.

A similar study shall be made by the office for any subsequent nuclear power plant with a generating capacity of 50 megawatts or more proposed for certification in California.

The Office of Emergency Services shall revise its Nuclear Power Plant Emergency Response Plan to reflect the information provided in the study. The Office of Emergency Services shall assist local authorities in preparing or upgrading their emergency response plans to reflect its new planning guidelines. The state plan shall be updated within six months after the study has been made. Local plans shall be updated and approved by the Office of Emergency Services in accordance with the following: (1) an initial draft plan

shall be submitted to the office within six months after the study has been made, and (2) a final plan shall be completed, reviewed, and approved within 18 months after the effective date of this section. Neither the state plan nor any local plan shall become effective or be implemented until approved by the Office of Emergency Services of this state or the Federal Emergency Management Agency.

The current State Nuclear Power Plant Emergency Response Plan shall continue in full force and effect unless and until revised pursuant to this section. Local plans shall remain in full force and effect unless and until revised pursuant to this section.

It is the intent of the Legislature that state and local costs related to carrying out the provisions of this section which are not reimbursed by federal funds shall be borne by the utility with existing nuclear power plants having a generating capacity of 50 megawatts or more, and that local agencies shall be reimbursed for their costs incurred in preparing or updating their plans for the affected area surrounding such power plants by the utility operating each power plant. The Public Utilities Commission shall develop and transmit to the Office of Emergency Services an equitable method of assessing the utilities operating the power plants for their reasonable pro rata share of state agency costs. Each local agency involved shall submit a statement of its costs in such manner as the Office of Emergency Services shall require. Upon each utility's notification by the Office of Emergency Services, from time to time, of the amount of its share of the actual or anticipated state and local agency costs, the utility shall pay such amount to the Controller for deposit in the Nuclear Planning Assessment Special Account, which is hereby created in the General Fund and is continuously appropriated to the Controller to carry out the provisions of this section. The Controller shall pay from this account the state and local costs relative to carrying out the provisions of this section upon certification thereof by the Office of Emergency Services. Each utility operating a nuclear power plant shall, within one month of the effective date of this section, pay to the Controller for deposit into the Nuclear Planning Assessment Special Account the sum of twenty-five thousand dollars ($25,000) for each nuclear power plant for the purpose of funding initial planning costs. Upon repeal of this section, any amounts remaining in the special account shall be refunded pro rata to the utilities contributing thereto. Beginning January 1, 1983, the total annual reimbursement of state and local costs from the utilities operating the nuclear power plants within the state pursuant to this section shall not exceed the lesser of the actual costs or three hundred thousand dollars ($300,000) annually for state costs to be prorated among utilities in proportion to the allocation of benefit to each plant and the lesser of the actual costs or one hundred thousand dollars ($100,000) per reactor unit annually for local costs. The amounts paid by privately owned utilities under this section shall be allowed for ratemaking purposes by the Public Utilities

Commission. Publicly owned public utilities may include amounts paid under this section in their rates.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute which is chaptered on or before January 1, 1988, 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.

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 avoid an interruption in the financial support of emergency services to protect the public health and safety in the event of a nuclear power plant accident, it is necessary that this act take immediate effect.

CHAPTER 865

An act to amend Section 2103 of the Code of Civil Procedure, relating to liens.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 2103 of the Code of Civil Procedure is amended to read:

2103. (a) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subdivision (b) is presented to a filing officer who is:

(1) The Secretary of State, he or she shall cause the notice to be marked, held, and indexed in accordance with the provisions of subdivision (4) of Section 9403 of the Commercial Code as if the notice were a financing statement within the meaning of that code; or

(2) A county recorder, he or she shall accept for filing, file for record in the manner set forth in Section 27320 of the Government Code, and index the document by the name of the person against whose interest the lien applies in the general index.

(b) If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the Secretary of State for filing he or she shall:

(1) Cause a certificate of release or nonattachment to be marked,

held, and indexed as if the certificate were a termination statement within the meaning of the Commercial Code, but the notice of lien to which the certificate relates may not be removed from the files; and

(2) Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the Commercial Code.

(c) If a refiled notice of federal lien referred to in subdivision (a) or any of the certificates or notices referred to in subdivision (b) is presented for filing to a county recorder, he or she shall accept for filing, file for record in the manner set forth in Section 27320 of the Government Code, and index the document by the name of the person against whose interest the lien applies in the general index.

(d) Upon request of any person, the filing officer shall issue his or her certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed after January 1, 1968, under this title or former Chapter 14 (commencing with Section 7200) of Division 7 of Title 1 of the Government Code, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate for each name searched shall be set by the filing officer in an amount which covers actual costs but which in no event exceeds fifteen dollars ($15). Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of one dollar ($1) per page. A combined certificate may be issued pursuant to Section 9409 of the Commercial Code.

CHAPTER 866

An act to add Sections 44253.7 and 56362.7 to the Education Code, relating to school certificated employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 44253.7 is added to the Education Code, to read:

44253.7. (a) In addition to the certificates authorized in Sections 44253.5 and 56362.7, the Commission for Teacher Preparation and Licensing, based upon the availability of funds, shall develop objective and verifiable standards for a certificate of bilingual-crosscultural competence for holders of any appropriate credential, certificate, authorization, or permit who will be serving limited-English-proficient pupils. These certificates may be issued to persons holding any appropriate credential or authorization issued

by the commission, including, but not limited to, counselors; special education professionals, including, but not limited to, the holders of special education credentials, clinical services credentials, and school psychologist authorizations; and child development and preschool professionals.

(b) Candidates for the certificate shall, by oral and written examination, demonstrate all of the following:

(1) That the person is competent in both the oral and written skills of a language other than English.

(2) That the person has both the knowledge and understanding of the cultural and historical heritage of the limited-English-proficient individuals to be served.

(3) That the person has the ability to perform the services the candidate is certified or authorized to perform in English and in a language other than English.

(c) The commission may develop rules and regulations setting forth objective and verifiable standards for approval of training programs leading to the certificates authorized by this section.

(d) For the purpose of assessing the qualifications established by the Commission for Teacher Preparation and Licensing in accordance with this section, the commission shall develop rules, regulations, or guidelines establishing an assessment system which may include local education agencies, institutions of higher education, and qualified nonprofit bilingual testing agencies as assessor agencies.

(e) On or before January 15, 1983, the Commission for Teacher Preparation and Licensing shall report to the Legislature regarding the implementation of this section.

(f) It is not the intent of the Legislature in enacting this section that possession of any certificate established by this section be a state-mandated requirement for employment. It is the intent that this is a matter for local educational agencies to determine.

SEC. 2. Section 56362.7 is added to the Education Code, to read:

56362.7. (a) The Legislature recognizes the need for specially trained professionals to assess and serve pupils of limited-English proficiency. This is particularly true of pupils with exceptional needs or pupils with suspected handicaps.

(b) The commission shall develop a bilingual-crosscultural certificate of assessment competence for those professionals who may participate in assessments for placements in special education programs. The certificate shall be issued to holders of appropriate credentials, certificates, or authorizations who demonstrate, by written and oral examination, all of the following:

(1) That the person is competent in both the oral and written skills of a language other than English.

(2) That the person has both the knowledge and understanding of the cultural and historical heritage of the limited-English-proficient individuals to be served.

(3) That the person has the ability to perform the assessment functions the candidate is certified or authorized to perform in English and in a language other than English.

(4) That the person has knowledge of the use of instruments and other assessment techniques appropriate to evaluate limited-English-proficient individuals with exceptional needs and ability to develop appropriate data, instructional strategies, individual educational plans, and evaluations.

(c) Certificates of bilingual-crosscultural competence for special education professionals who implement individual education plans requiring bilingual services shall be granted by the commission pursuant to Section 44253.7.

(d) It is not the intent of the Legislature in enacting this section that possession of any certificate established by this section be a state-mandated requirement for employment or continued employment. It is the intent that this is a matter for local educational agencies to determine.

SEC. 3. The sum of seven thousand dollars ($7,000) is hereby appropriated from the Teacher Credentials Fund in augmentation of Item 6360-001-407 of the Budget Act of 1982 for the development of appropriate standards for the certificates of bilingual-crosscultural assessment competence described in Section 56362.7 of the Education Code in the Spanish language. The development of appropriate standards for certificates of bilingual-crosscultural assessment competence in languages other than Spanish may be accomplished to the extent allowable under funding priorities established by the Commission for Teacher Preparation and Licensing.

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 permit the certification of vitally needed bilingual-crosscultural education professionals at the earliest possible time, and so render existing special education programs more effective, it is necessary that this act take effect immediately.

CHAPTER 867

An act to amend Sections 109, 1010, 1011, and 1427 of, to add Chapter 3.6 (commencing with Section 380) to Division 1 of, and to add Chapter 6.6 (commencing with Section 1435) to Part 2 of Division 2 of, the Water Code, relating to water.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 109 of the Water Code is amended to read:

109. (a) The Legislature hereby finds and declares that the growing water needs of the state require the use of water in an efficient manner and that the efficient use of water requires

certainty in the definition of property rights to the use of water and transferability of such rights. It is hereby declared to be the established policy of this state to facilitate the voluntary transfer of water and water rights where consistent with the public welfare of the place of export and the place of import.

(b) The Legislature hereby directs the Department of Water Resources, the State Water Resources Control Board, and all other appropriate state agencies to encourage voluntary transfers of water and water rights, including, but not limited to, providing technical assistance to persons to identify and implement water conservation measures which will make additional water available for transfer.

SEC. 2. Chapter 3.6 (commencing with Section 380) is added to Division 1 of the Water Code, to read:

CHAPTER 3.6. DEFERENCE TO DECISIONS BY LOCAL OR REGIONAL AGENCIES

380. The Legislature hereby finds and declares as follows:

(a) The various regions of the state differ widely in the availability of water supplies and in the need for water to meet beneficial uses.

(b) Decisions regarding operations to meet water needs can depend in part upon regional differences.

(c) Many water management decisions can best be made at a local or regional level, to the end that local and regional operational flexibility will maximize efficient statewide use of water supplies.

(d) The authority granted by this chapter to local and regional public agencies, as defined in subdivision (a) of Section 65930 of the Government Code and not including federal agencies, is in furtherance of the policy declared in Section 2 of Article X of the California Constitution and in Section 109.

381. The authority of local or regional public agencies pursuant to this chapter shall control over any other provision of law which contains more stringent limitations on the authority of a particular public agency to serve water for use outside the agency, to the extent those other laws are inconsistent with the authority granted herein.

382. Notwithstanding any other provision of law, every local or regional public agency authorized by law to serve water to the inhabitants of the agency may sell, lease, exchange, or otherwise transfer water that is surplus to the needs of the agency's water users for use outside of the agency. The authority granted to local and regional public agencies by this chapter shall not be construed as prohibiting or restricting the transfer of water or water rights pursuant to authority granted such agencies by provisions of law other than this chapter.

383. For the purposes of this chapter, water that is surplus to the needs of the agency's water users shall mean any of the following:

(a) Water, to which the right is held by the agency pursuant to an appropriation made under the Water Commission Act or Division 2 (commencing with Section 1000), which the agency finds will be in

excess of the needs of water users within the agency for the duration of the transfer.

(b) Water, to which the right is held by the agency pursuant to an appropriation made under the Water Commission Act or Division 2 (commencing with Section 1000), of which any water user agrees with the agency, upon mutually satisfactory terms, to forego use for the duration of the transfer.

(c) Water, to which the right is held by a water user within the agency pursuant to an appropriation made under the Water Commission Act or Division 2 (commencing with Section 1000) where the water user and the agency agree, upon mutually satisfactory terms, that the water user will forego use for the period of time specified in the agreement and that the agency shall act as agent for the water user to effect the transfer.

384. Prior to serving water to any person for use outside the agency, the agency shall comply with all provisions of the general laws of this state relating to the transfer of water or water rights, including, but not limited to, procedural and substantive requirements governing any change in point of diversion, place of use, or purpose of use due to such transfer.

385. No water may be transferred pursuant to this chapter for use within the boundaries of a local or regional public agency that furnishes the same water service to the transferee without the prior consent of that agency.

386. The board may approve any change associated with a transfer pursuant to this chapter only if it finds that the change may be made without injuring any legal user of the water and without unreasonably affecting fish, wildlife, or other instream beneficial uses and does not unreasonably affect the overall economy of the area from which the water is being transferred.

A petitioner requesting a change which is subject to this section shall pay to the board a fee which shall be in an amount determined by the board to cover the reasonable costs of the board in evaluating and processing the petition.

387. No water may be transferred under the provisions of this chapter for a period in excess of seven years, except that water made available as a result of waste water reclamation, the development of additional supplies, or water conservation, as defined in Sections 1010 and 1011, may be transferred for such period of time as may be agreed upon by the agency and the transferee.

SEC. 3. Section 1010 of the Water Code is amended to read:

1010. (a) Cessation of or reduction in the use of water under any existing right regardless of the basis of right, as the result of the use of reclaimed water or water polluted by waste to a degree which unreasonably affects such water for other beneficial uses, shall be and is deemed equivalent to, and for purposes of maintaining any right shall be construed to constitute, a reasonable beneficial use of water to the extent and in the amount that such reclaimed or polluted water is being used not exceeding, however, the amount of such

reduction. No lapse, reduction, or loss of any existing right shall occur under such conditions and, to the extent and in the amount that reclaimed or polluted water is used in lieu of water appropriated by a permittee pursuant to Chapter 6 (commencing with Section 1375) of Part 2, the board shall not reduce the appropriation authorized in the user's permit. Such use of reclaimed or polluted water shall constitute good cause under Section 1398 to extend the period specified in a permit for application of appropriated water to beneficial use to the extent and in the amount that reclaimed or polluted water is used. Such extension by the board shall be granted upon the same terms as are set forth in the user's permit, and for a period sufficient to enable the permittee to perfect his appropriation, while continuing to use reclaimed or polluted water.

The board, in issuing a license pursuant to Article 3 (commencing with Section 1610) of Chapter 9 of Part 2, shall not reduce the appropriation authorized by permit, to the extent and in the amount that reduction in a permittee's use, during the perfection period, including any extention as provided in this section, has resulted from the use of reclaimed or polluted water in lieu of the permittee's authorized appropriation.

The board may require that any user of water who seeks the benefit of this section file periodic reports describing the extent and amount of the use of reclaimed or polluted water. To the maximum extent possible, the reports shall be made a part of other reports required by the board relating to the use of water.

For purposes of this section, the term "reclaimed water" shall have the same meaning as in Division 7 (commencing with Section 13000).

(b) Water, or the right to the use of water, the use of which has ceased or been reduced as the result of the use of reclaimed or polluted water as described in subdivision (a), may be sold, leased, exchanged, or otherwise transferred pursuant to any provision of law relating to the transfer of water or water rights, including, but not limited to, provisions of law governing any change in point of diversion, place of use, and purpose of use due to the transfer.

SEC. 4. Section 1011 of the Water Code is amended to read:

1011. (a) When any person entitled to the use of water under an appropriative right fails to use all or any part of the water because of water conservation efforts, any cessation or reduction in the use of such appropriated water shall be deemed equivalent to a reasonable beneficial use of water to the extent of such cessation or reduction in use. No forfeiture of the appropriative right to the water conserved shall occur upon the lapse of the forfeiture period applicable to water appropriated pursuant to the Water Commission Act or this code or the forfeiture period applicable to water appropriated prior to December 19, 1914.

The board may require that any user of water who seeks the benefit of this section file periodic reports describing the extent and amount of the reduction in water use due to water conservation efforts. To the maximum extent possible, the reports shall be made

a part of other reports required by the board relating to the use of water. Failure to file the reports shall deprive the user of water of the benefits of this section.

For purposes of this section, the term "water conservation" shall mean the use of less water to accomplish the same purpose or purposes of use allowed under the existing appropriative right. Where water appropriated for irrigation purposes is not used by reason of land fallowing or crop rotation, the reduced usage shall be deemed water conservation for purposes of this section.

(b) Water, or the right to the use of water, the use of which has ceased or been reduced as the result of water conservation efforts as described in subdivision (a), may be sold, leased, exchanged, or otherwise transferred pursuant to any provision of law relating to the transfer of water or water rights, including, but not limited to, provisions of law governing any change in point of diversion, place of use, and purpose of use due to the transfer.

SEC. 5. Section 1427 of the Water Code is amended to read:

1427. Before making the findings required by Section 1425, the board shall review available records, files, and decisions which relate to the availability of water from the source at the proposed point of diversion to serve the proposed temporary diversion and use, and which relate to the rights of downstream users; shall consult with representatives of the Department of Fish and Game; and shall make a field investigation, if necessary or desirable in the opinion of the board.

SEC. 6. Chapter 6.6 (commencing with Section 1435) is added to Part 2 of Division 2 of the Water Code, to read:

CHAPTER 6.6. TEMPORARY URGENCY CHANGES

1435. (a) When the board finds that a permittee or licensee has a temporary need to change a point of diversion, place of use, or purpose of use from that specified in the permit or license under emergency conditions, and that the change may be made without injury to any lawful user of water and without unreasonable effect upon fish, wildlife, or other instream beneficial uses, the board may issue to a petitioner a conditional, temporary change order without requiring compliance with other procedures or provisions of this division, but subject to all requirements of this chapter.

(b) No temporary change order may be issued pursuant to the provisions of this chapter unless it is first determined that the proposed temporary change would not adversely affect the rights of other users. The board may delegate to any employee of the board all or any of its functions under this chapter. However, the board shall, at its next regular meeting, review and validate any change order issued by an employee.

(c) "Emergency conditions," for the purposes of this chapter, shall be found to exist when there have been unexpected circumstances requiring immediate action by a petitioner to change

a point of diversion, place of use, or purpose of use so as to protect the public health, welfare, or safety. It is not necessary that the emergency conditions be such that they could not have been anticipated or prepared for, but only that in the normal course of events they would seldom be expected.

1436. The petition for a temporary change order shall be completed in accordance with the rules of the board, and the petitioner shall pay the fee required by Chapter 8 (commencing with Section 1525).

1437. Before making the findings required by Section 1435, the board shall review available records, files, and decisions which relate to the rights of other legal users of water, consult with representatives of the Department of Fish and Game, and make a field investigation if the investigation is necessary or desirable in the opinion of the board.

1438. (a) The board may issue a temporary change order in advance of the notice required by this section. In all cases, whether or not a temporary change order has been issued, the board shall, as soon as practicable after the receipt of a petition, issue and deliver to the permittee or licensee a notice of the change order which includes the information required by the rules of the board.

(b) Publication or posting of the notice shall be as follows:

(1) If the permit or license is for more than three cubic feet per second or for more than 200 acre-feet of storage, and if the change order is to remain in effect for more than 30 days, the notice shall be published by, and at the expense of, the permittee or licensee at the earliest practicable time, not to exceed 20 days from the date of issuance of the notice, in a newspaper having a general circulation and published within the county wherein the point of diversion lies. Proof of publication shall be by copy of the notice as published and made part of an affidavit filed with the board within 10 days of publication.

(2) In all other cases, unless the change order is to be in effect less than 10 days:

(A) The permittee or licensee shall post the notice in at least two conspicuous places in the locality to be affected by the change. Notices shall be posted not later than two days after receipt. An affidavit containing proof of posting shall be filed with the board within seven days of the date of notice.

(B) The board shall send a copy of the notice by registered mail to each person who, in the judgment of the board, could be adversely affected by the temporary change.

(c) Regardless of the rate of diversion or the amount of storage, if the change order is to be in effect less than 10 days, the board shall exercise its discretion with respect to requiring notice, both before and after issuance of the change order, and may require such proof of notice as it deems appropriate.

(d) Any interested person may file an objection to the temporary change with the board, and the board shall send a copy of that

objection to the permittee or licensee.

(e) The board shall give prompt consideration to any objection, and may hold a hearing thereon, after notice to all interested persons.

(f) Failure of the permittee or licensee to comply with any requirement of this section shall result in the automatic termination of the temporary change.

1439. The board shall supervise the use of water under the temporary change order for the protection of vested rights and instream beneficial uses and for compliance with change order conditions.

1440. Any temporary change order issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation in the discretion of the board. Any temporary change order shall automatically expire 180 days after the date of its issuance unless an earlier date is specified or it has been revoked.

1441. A temporary change order issued under this chapter may be renewed by the board. Requests for renewal shall be processed in the manner provided by this chapter except that the permittee or licensee shall not be required to file duplicate maps, drawings, or other data if they were furnished with the original petition. Each such renewal shall be valid for a period not to exceed 180 days from the date of renewal.

1442. This chapter shall not apply to any permittee or licensee petitioning for a temporary change pursuant to Chapter 10.5 (commencing with Section 1725).

SEC. 7. It is the intent of the Legislature that the duties and responsibilities provided for in this act be accomplished by utilizing existing staff resources and that no additional funding be provided other than that which is appropriated by the Legislature in the annual Budget Act.

CHAPTER 868

An act to amend Sections 3306, 3327.5, and 3365 of, to add Section 3427.5 to, and to repeal Section 3431 of, the Business and Professions Code, relating to hearing aid dispensers.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 3306 of the Business and Professions Code is amended to read:

3306. "Practice of fitting or selling hearing aids," as used in this chapter, means those practices used for the purpose of selection and

adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids as provided in Section 3440, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling.

The practice of selling hearing aids does not include the act of concluding the transaction by a retail clerk.

When any audiometer or other equipment is used in the practice of fitting or selling hearing aids, it shall be kept properly calibrated and in good working condition, and the calibration of such audiometer or other equipment shall be checked at least annually.

SEC. 2. Section 3327.5 of the Business and Professions Code is amended to read:

3327.5. On and after January 1, 1980, all holders of licenses to sell or fit hearing aids shall continue their education after receiving such license. The committee shall provide by regulation, as a condition to the renewal thereof, that licensees shall submit documentation satisfactory to the committee that they have informed themselves of current practices related to the fitting of hearing aids by having pursued courses of study satisfactory to the committee or by other means defined as equivalent by the committee.

SEC. 3. Section 3365 of the Business and Professions Code is amended to read:

3365. A licensee shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or on behalf of the licensee, containing all of the following:

(a) The date of consummation of the sale.

(b) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

(c) The address of the principal place of business of the licensee, and the address and office hours at which the licensee shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

(d) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

(e) The number of the licensee's license and the name and license number of any other hearing aid dispenser who provided any recommendation or consultation regarding the purchase of the hearing aid.

(f) The terms of any guarantee or express warranty, if any, made to the purchaser with respect to such hearing aid or hearing aids.

(g) Such receipt shall bear, or have attached to it in no smaller type than the largest used in the body copy portion, the following:

"The purchaser has been advised at the outset of his or her relationship with the hearing aid dealer that any examination or representation made by a licensed hearing aid dealer or fitter in connection with the practice of fitting or selling of this hearing aid, or hearing aids, is not an examination, diagnosis, or prescription by

a person licensed to practice medicine in this state, or by licensed audiologists and therefore must not be regarded as medical opinion or professional advice."

SEC. 4. Section 3427.5 is added to the Business and Professions Code, to read:

3427.5. It is unlawful for a licensed hearing aid dispenser to fit or sell a hearing aid unless he or she has first (a) complied with all provisions of state laws and regulations relating to the fitting or selling of hearing aids, (b) conducted a direct observation of the purchaser's ear canals, and (c) informed the purchaser of the address and office hours at which the licensee shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

SEC. 5. Section 3431 of the Business and Professions Code is repealed.

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 869

An act to amend Section 1226 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 1226 of the Health and Safety Code is amended to read:

1226. The regulations shall prescribe the kinds of services which may be provided by clinics in each category of licensure and shall prescribe minimum standards of adequacy, safety, and sanitation of the physical plant and equipment, minimum standards for staffing with duly qualified personnel, and minimum standards for providing the services offered. These minimum standards shall be based on the type of facility, the needs of the patients served, and the types and levels of services provided.

The Office of Statewide Health Planning and Development, in consultation with the Community Clinics Advisory Committee, shall prescribe minimum construction standards of adequacy and safety for the physical plant of clinics and submit these standards for

approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 and for publication in the State Building Standards Code.

However, regulations adopted pursuant to this chapter establishing standards for laboratory services shall not be applicable to any clinic which operates a clinical laboratory licensed pursuant to Section 1265 of the Business and Professions 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 provide for a comprehensive regulation and administration of community clinics as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 870

An act to add Article 3.5 (commencing with Section 4860) to Chapter 11 of Division 2 of the Business and Professions Code, relating to veterinarians, and making an appropriation therefor.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Article 3.5 (commencing with Section 4860) is added to Chapter 11 of Division 2 of the Business and Professions Code, to read:

Article 3.5. Diversion Evaluation Committees

4860. It is the intent of the Legislature that the Board of Examiners in Veterinary Medicine seek ways and means to identify and rehabilitate veterinarians and animal health technicians with impairment due to abuse of dangerous drugs or alcohol, affecting competency so that veterinarians and animal health technicians so afflicted may be treated and returned to the practice of veterinary medicine in a manner which will not endanger the public health and safety.

4861. One or more diversion evaluation committees is hereby authorized to be established by the board. Each diversion evaluation committee shall be composed of five persons appointed by the board.

Each diversion evaluation committee shall have the following composition:

(a) Three veterinarians licensed under this chapter. The board in making its appointments shall give consideration to recommendations of veterinary associations and local veterinary

societies and shall consider, among others, where appropriate, the appointment of veterinarians who have recovered from impairment or who have knowledge and expertise in the management of impairment.

(b) Two public members.

Each person appointed to a diversion evaluation committee shall have experience or knowledge in the evaluation or management of persons who are impaired due to alchohol or drug abuse.

It shall require the majority vote of the board to appoint a person to a diversion evaluation committee. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion the board may stagger the terms of the initial members appointed.

The board may appoint a program director and other personnel as necessary to carry out provisions of this article.

4862. Each member of a diversion evaluation committee shall receive per diem and expenses as provided in Section 103.

4863. Three members of a diversion evaluation committee shall constitute a quorum for the transaction of business at any meeting. Any action requires the majority vote of the diversion evaluation committee.

4864. Each diversion evaluation committee shall elect from its membership a chairperson and a vice chairperson.

4865. The board shall administer the provisions of this article.

4866. (a) The board shall establish criteria for the acceptance, denial, or termination of veterinarians and animal health technicians in a diversion program. Only those veterinarians and animal health technicians who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a program.

(b) The board shall establish criteria for the selection of administrative physicians who shall examine veterinarians and animal health technicians requesting diversion under a program. Any reports made under this article by the administrative physician shall constitute an exception to Sections 994 and 995 of the Evidence Code.

(c) The diversion program may accept no more than 25 participants who are licensees of the board.

4867. The diversion evaluation committee shall inform each veterinarian and animal health technician who requests participation in a program of the procedures followed in the program, of the rights and responsibilities of the veterinarian and animal health technician in the program, and of the possible results of noncompliance with the program.

4868. Each diversion evaluation committee shall have the following duties and responsibilities:

(a) To evaluate those veterinarians and animal health technicians who request participation in the program according to the guidelines prescribed by the board and to consider the recommendation of the

administrative physician on the admission of the veterinarian or animal health technician to the diversion program.

(b) To review and designate those treatment facilities to which veterinarians and animal health technicians in a diversion program may be referred.

(c) To receive and review information concerning veterinarians and animal health technicians participating in the program.

(d) To call meetings as necessary to consider the requests of veterinarians and animal health technicians to participate in a diversion program, and to consider reports regarding veterinarians and animal health technicians participating in a program from an administrative physician, or from others.

(e) To consider in the case of each veterinarian and animal health technician participating in a program whether he or she may with safety continue or resume the practice of veterinary medicine or the assisting in the practice of veterinary medicine.

(f) To set forth in writing for each veterinarian and animal health technician participating in a program a treatment program established for each such veterinarian and animal health technician with the requirements for supervision and surveillance.

(g) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the program's progress, to review data as required in reports to the board, to prepare reports to be submitted to the board, and to suggest proposals for changes in the diversion program.

4869. Notwithstanding the provisions of Chapter 1 (commencing with Section 11120) of Part 1 of Division 2 of Title 2 of the Government Code, relating to public meetings, a diversion evaluation committee may convene in closed session to consider reports pertaining to any veterinarian or animal health technician requesting or participating in a diversion program. A diversion evaluation committee shall only convene in closed session to the extent that it is necessary to protect the privacy of such a veterinarian or animal health technician.

4870. Each veterinarian and animal health technician who requests participation in a diversion program shall agree to cooperate with the treatment program designed by a diversion evaluation committee. Any failure to comply with the provisions of a treatment program may result in termination of the veterinarian's or animal health technician's participation in a program.

4871. (a) After a diversion evaluation committee in its discretion has determined that a veterinarian or animal health technician has been rehabilitated and the diversion program is completed, the diversion evaluation committee shall purge and destroy all records pertaining to the veterinarian's or animal health technician's participation in a diversion program.

(b) All board and diversion evaluation committee records and records of proceedings pertaining to the treatment of a veterinarian or animal health technician in a program shall be kept confidential

and are not subject to discovery or subpoena.

4872. The board shall provide for the representation of any persons making reports to a diversion evaluation committee or the board under this article in any action for defamation.

4873. The board shall charge each veterinarian and animal health technician who is accepted to participate in the diversion program a diversion program registration fee. The diversion program registration fee shall be set by the board in an amount not to exceed sixteen hundred dollars ($1,600). In the event that the diversion program registration exceeds two hundred dollars ($200), the board may provide for quarterly payments.

CHAPTER 871

An act to amend Section 18502.5 of the Health and Safety Code, relating to mobilehomes.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 18502.5 of the Health and Safety Code is amended to read:

18502.5. (a) There is hereby established in the State Treasury the Mobilehome Parks Revolving Fund into which funds collected by the department pursuant to this part shall be deposited. Money deposited in the fund is continuously appropriated to the department for expenditure in carrying out the provisions of this part.

(b) Notwithstanding any maximum fees set by this part, the department may, by regulation, set fees charged by the department for all permits and for the department's activities mandated by this part. The fees shall be set with the primary objective that the aggregate revenue deposited in the Mobilehome Parks Revolving Fund shall not, on an annual basis, exceed the costs of the department's activities mandated by this part.

(c) No proposed increase in fees may be effective any sooner than 45 days after written notification thereof is provided to the Chairman of the Joint Legislative Audit Committee and the Auditor General. Upon receipt of the notification, the Auditor General may prepare, a report to the Legislature which indicates whether the proposed increase is appropriate and consistent with the provisions of this part.

(d) The total money contained in the Mobilehome Parks Revolving Fund on June 30 of each fiscal year shall not exceed the amount of money needed for the department's operating expenses for one year for the enforcement of this part. If the total money contained in the fund exceeds this amount, the department shall

make appropriate reductions in the schedule of fees authorized by this section.

(e) Any city, county, or city and county which, pursuant to this section, transmits any annual mobilehome park permit-to-operate fees to the state, may, by ordinance, add a surcharge to these fees to defray its administrative costs in transmitting the fees to the department, provided the aggregate amount of the surcharge does not exceed the actual administrative costs of transmittal.

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 that date, deletes or extends such date.

CHAPTER 872

An act to amend Section 712 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 712 of the Unemployment Insurance Code is amended to read:

712. To the extent permitted by federal law, no contributions shall be due from any nonprofit organization organized before 1960 which received a retroactive determination after April 1, 1981, and before April 1, 1982, that it has been a nonprofit organization from the date it was organized, which made contributions with respect to service performed in its employ prior to January 1, 1982, and which elected a method of financing and elected to use prior contributions until the additional cost of benefits reimbursable by or the cost of benefits paid and reimbursable by the nonprofit organization together with the benefits charged and chargeable to the reserve account of the nonprofit organization as the result of its prior elective coverage agreement exceed the contributions made by the nonprofit organization and credited to its reserve account pursuant to its prior elective coverage agreement.

This section shall apply only to organizations which make the elections described in this section within 120 days of the time they are legally able to do so because of a change in federal law.

CHAPTER 873

An act relating to the transfer of real property belonging to the state to the County of Amador, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982]

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

SECTION 1. The Director of General Services, with the approval of the State Public Works Board and the Director of the Department of Forestry is hereby authorized to sell or lease for current market value or for any lesser consideration authorized by law and upon such terms, conditions, and with such reservations and exceptions as in his or her opinion may be for the best interest of the state, up to approximately three acres, being a portion of the Sutter Hill Forest Fire Station located in the County of Amador, on the easterly side of State Highway 49, about 2½ miles northerly of the City of Jackson, to the County of Amador.

SEC. 2. The parcel transferred to the County of Amador pursuant to this bill shall be utilized by the county for the location of a recreation and nutrition facility for senior citizens.

SEC. 3. The county shall recognize in the conveyance document that the property is located next to an emergency response facility, with all of its detrimental aspects, and that the county's use of the conveyed lands will not interfere with the operations of the emergency response facility.

SEC. 4. The parcel addressed in this act shall be exempt from the provisions of Sections 21000 to 21174, inclusive, of the Public Resources Code.

SEC. 5. Any cost or expense incurred in the disposition of any parcel may be reimbursed from the proceeds of such disposition.

SEC. 6. Subject to the provisions of Section 5, any moneys received from the disposition of any parcel shall be paid into the General Fund.

SEC. 7. The Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry.

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 urgently needed space to meet the needs of senior citizens of Amador County for food and recreational programs may be acquired and become available at the earliest possible time, it is necessary that this act go into effect immediately.

CHAPTER 874

An act to amend Sections 48933 and 94153 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 48933 of the Education Code is amended to read:

48933. (a) The funds of any student body organization established in the public schools of any school district shall, subject to approval of the governing board of the school district, be deposited or invested in one or more of the following ways:

(1) Deposits in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.

(2) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations provided such associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.

(3) Purchase of repurchase agreements issued by savings and loan associations or banks.

(4) Purchase of bonds, notes, bills, certificates, debentures, or any other obligations issued by the United States of America.

(5) Shares or certificates for funds received or any form of evidence of interest or indebtedness issued by any credit union in this state, organized under the provisions of Division 5 (commencing with Section 14000) of the Financial Code or the statutes of the United States relating to credit unions insured by the administrator of the National Credit Union Administration or a comparable agency as provided by a state government.

(b) The funds shall be expended subject to such procedure as may be established by the student body organization subject to the approval of each of the following three persons which shall be obtained each time before any of such funds may be expended: an employee or official of the school district designated by the governing board, the certificated employee who is the designated adviser of the particular student body organization, and a representative of the particular student body organization.

SEC. 2. Section 94153 of the Education Code is amended to read:

94153. The total amount of bonds authorized to be outstanding at any one time under this chapter shall be five hundred million dollars ($500,000,000).

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:

Without immediate implementation of this act, the educational facilities covered by the so-called California Educational Facilities Authority Act will run out of funds. To avoid this problem, it is necessary that this act take effect immediately.

Furthermore, due to the funding crisis currently faced by public schools, student body organizations desire to invest their funds so as to earn a higher rate of return without delay. In order, therefore, to permit student body organizations to receive a maximum return on investments at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 875

An act to amend Section 10010.5 of the Elections Code, relating to elections.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 10010.5 of the Elections Code is amended to read:

10010.5. In each county, the county central committee of each qualified political party may supply to its county clerk, not less than 60 days prior to the election, a party contributor envelope or a one-page letter, in which both sides may be utilized, to be included in the mailing of the sample ballot to each of that political party's registered voters in the county. In lieu of supplying the clerk with a sufficient number of copies of the one-page letter, a county central committee may supply the clerk with the text of the letter and request the clerk to print, or cause to be printed, a sufficient number of copies of the letter to accommodate the mailing. The clerk shall notify the respective county committee of, and the committee shall reimburse the county for, any actual costs incurred by the inclusion or printing, or both. The clerk may, prior to acting pursuant to this section, require the county committee to post a bond to ensure such reimbursement.

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

All funds received by the return of such party contributor envelopes or in response to the letters shall be kept separate from all other funds and shall be kept in a fund (account) to be established

in each county under a trusteeship consisting of the chairman and treasurer of the county central committee plus a third trustee resident in the respective county to be appointed by the chairman of the state central committee. Any funds which are prohibited under federal law from being used for candidates for federal office shall be further segregated and the portion allocated to candidates shall be disbursed only to candidates for state office.

In the case of the Democratic Party and the Republican Party all such funds received shall, in turn, be paid out in the following manner: one-third to the state central committee of the party, one-third to the county central committee of the party for that county, and one-third divided equally among the nominees of the party to represent congressional, State Senate and Assembly districts located in the county. In the event that the State Senate seat is not up for election, the share for that office shall be allotted equally between the nominees for Congress and the Assembly.

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

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

CHAPTER 876

An act to amend Sections 26821, 26822.3, and 70053 of, and to repeal Sections 26821.1, 26822.1, 26826.1, and 26827.3 of, the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 26821 of the Government Code is amended to read:

26821. As part of the fees collected pursuant to Sections 26820.4, 26826, and 26827, a clerk's fee for filing the first paper, fixed in accordance with Section 68090, shall be collected.

SEC. 2. Section 26821.1 of the Government Code is repealed.

SEC. 3. Section 26822.1 of the Government Code is repealed.

SEC. 4. Section 26822.3 of the Government Code is amended to read:

26822.3. As part of the fees collected pursuant to Sections 26820.4,

26826, and 26827 a fee of three dollars ($3) shall be collected.

The funds shall be transmitted at the end of each month to the State Controller for payment into the Judges' Retirement Fund.

SEC. 5. Section 26826.1 of the Government Code is repealed.

SEC. 6. Section 26827.3 of the Government Code is repealed.

SEC. 7. Section 70053 of the Government Code is amended to read:

70053. A reporter's filing fee, as specified by statute, shall be paid in accordance with Section 68090.5.

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 the City and County of San Francisco be afforded the same authority for filing fees in superior courts as in other counties at the earliest possible date, it is necessary that this act take effect immediately.

CHAPTER 877

An act to add Article 9 (commencing with Section 8100) to Chapter 1 of Part 3 of the Fish and Game Code, relating to fishing.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Article 9 (commencing with Section 8100) is added to Chapter 1 of Part 3 of the Fish and Game Code, to read:

Article 9. Limited Entry Fisheries

8100. "Limited entry fishery" means a fishery in which the number of persons who may participate in taking a specified species of fish is limited by statute.

8101. (a) Any licensed commercial fisherman shall be eligible for inclusion during the initial year of a limited entry fishery which is established by statute that becomes operative after January 1, 1982, regardless of the prescribed conditions for entry into the fishery, if the fisherman presents to the department satisfactory evidence that he or she has been licensed as a California commercial fisherman for at least 20 years and has participated in the fishery affected for at least one of those 20 years.

(b) Fishermen who have established eligibility to participate in a limited entry fishery under this section are subject to conditions of continuing eligibility established by statute or regulation if those fishermen desire to maintain their eligibility.

CHAPTER 878

An act to amend Section 12804 of the Vehicle Code, relating to driver's licenses.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 12804 of the Vehicle Code is amended to read:

12804. (a) The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, the ability to read and understand simple English used in highway traffic and directional signs, and his understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation. The applicant shall be required to give an actual demonstration of his ability to exercise ordinary and reasonable control in operating a motor vehicle by driving the motor vehicle under the supervision of an examining officer and submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive, except that the department may waive the driving test part of the examination of an applicant who holds a valid license issued by another state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. The examination shall also include a test of the hearing and eyesight of the applicant and those other matters as may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a license under this code. The examination for a class 1 or class 2 license under subdivision (b) of this section shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine. The report shall be on a form approved by the department or by the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation. In establishing the requirements, consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration of the United States Department of Transportation. Any physical defect of the applicant, which, in the opinion of the department, is compensated to insure safe driving ability, shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications, any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles

the applicant desires a license to drive:

(1) Class 1. Any combination of vehicles and includes the operation of all vehicles under class 2 and class 3.

(2) Class 2. Any bus, any single vehicle with three or more axles, any such vehicles towing another vehicle weighing less than 6,000 pounds gross, and all vehicles covered under class 3.

(3) Class 3. A three-axle housecar, any three-axle vehicle weighing less than 6,000 pounds gross, any two-axle vehicle, any three-axle housecar or vehicle towing another vehicle weighing less than 6,000 pounds gross, and any two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach not exceeding 9,000 pounds gross or a trailer or semitrailer not exceeding 9,000 pounds gross designed and used exclusively for hauling livestock, or a trailer not exceeding 9,000 pounds gross used to transport agricultural products from a farm to a processing or handling point, or a trailer transporting a boat not exceeding 9,000 pounds gross, when the towing of livestock, agricultural products, or boats is not for compensation, except a bus, two-wheel motorcycle, two-wheel motor-driven cycle, or "farm labor vehicle."

(4) Class 4. Any two-wheel motorcycle, any two-wheel motor-driven cycle, or any motorized bicycle. Authority to operate vehicles included in a class 4 license may be granted by endorsement on a class 1, 2 or 3 license upon completion of appropriate examination.

(c) Class 1 and class 2 driver's licenses shall be valid for operating class 1 or class 2 vehicles only when a medical certificate approved by the department or the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation is in the licensee's immediate possession which has been issued within two years of the date of the operation of that vehicle, otherwise the license shall be valid only for operating class 3 vehicles and class 4 vehicles if so endorsed.

(d) A farm labor vehicle driver certificate shall not be valid unless the driver is in possession of a medical certificate issued within the past two years.

(e) The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications when the certificate is issued by an employer of the applicant, provided the applicant has first qualified for a class 3 license and also met the other examination requirements for the license for which he or she is applying. The certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he or she is applying.

(f) The department may accept a certificate of competence in lieu of a driving test on class 4 applications when the certificate is issued by a law enforcement agency for its officers who operate class 4 vehicles in their duties, provided the applicant has also met the other examination requirements for the license for which he or she is applying.

(g) Notwithstanding the provisions of subdivision (b), any person holding a valid California driver's license of any class may operate a motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class 4 endorsement on that license.

(h) Drivers of vanpool vehicles, may operate with class 3 licenses, but shall possess evidence of a medical examination required for a class 2 license when operating vanpool vehicles. The driver shall keep in the vanpool vehicle a statement signed under penalty of perjury that he or she has not been convicted of reckless driving, drunk driving, or a hit and run offense in the last five years in order to be eligible to drive the vanpool vehicle.

CHAPTER 879

An act to amend Section 5621 of, and to add Sections 5007.3 and 5630.5 to, the Public Resources Code, and to amend and supplement the Budget Act of 1982 by amending Item 3790-301-721 thereof, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982 Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 5007.3 is added to the Public Resources Code, to read:

5007.3. (a) In planning, developing, managing, and operating lands acquired for the Citrus Heritage Park at Mockingbird Canyon, the department and the State Park and Recreation Commission shall adhere to the following requirements:

(1) Vehicular and other public access shall be restricted to Dufferin Avenue between Van Buren Boulevard and Jackson Street.

(2) Interior roads, pathways, and attractions within the park shall be located so as to minimize opportunities for trespass onto adjoining nonpark properties, and fencing shall be installed in areas subject to high visitor usage.

(3) Lands within the park that are upstream of Mockingbird Reservoir shall be managed as wildlife habitat and open space, and no facilities for the use of the general public shall be constructed on those lands.

(4) A program of pest management shall be immediately undertaken in citrus groves, as they are acquired by the state, to prevent the spread of pests to nonstate property, and the citrus groves shall be managed so as to preserve them in a healthy and productive state.

(b) For the purposes of rationalizing the boundaries of the Citrus Heritage Park, the City of Riverside shall offer for sale, at fair market value, all of Parcel No. 238-050-003-5 to an adjoining property owner. If no adjoining property owner purchases that parcel, the city shall transfer title to that parcel to the state, as provided in proviso (6) of Item 3790-301-721 of the Budget Act of 1982 (Chapter 326, Statutes 1982).

SEC. 2. 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); 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; any memorial district formed under Chapter 1 (commencing with Section 1170) of Division 6 of the Military and Veterans Code that employs a full-time park and recreation director and offers year-around 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).

(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. 3. 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; recreation and park districts formed under Chapter 4 (commencing with Section 5780); 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; any community services district formed under Division 3 (commencing with Section 61000) of Title 6 of the Government Code in a nonurbanized area which is authorized to provide public recreation as specified in subdivision (e) of Section 61600 of the Government Code; any memorial district formed under Chapter 1 (commencing with Section 1170) of Division 6 of the Military and Veterans Code 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 in subdivision (c).

(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. 4. Section 5630.5 is added to the Public Resources Code, to read:

5630.5. Grants may be made to memorial districts only for indoor and outdoor park and recreation facilities that meet the requirements of this chapter and the criteria adopted pursuant to Section 5625.

SEC. 5. Pursuant to Section 5096.96 of the Public Resources Code, the West Riverside Memorial District may sell to any public entity or private party a 0.4-acre parcel known as Paramount Park, which was developed with a grant of state funds appropriated in Item 390 (199) of the Budget Act of 1975 (Chapter 176, Statutes of 1975) and pursuant to Department of Parks and Recreation project #33-0031, subject to all of the following conditions:

(a) The park and all improvements thereon shall be sold for at least for fair market value, but in no event for less than the sum of fifty-five thousand seven hundred one dollars ($55,701), excluding the costs of sale.

(b) All proceeds of the sale, excluding the costs of sale, shall be expended only for the acquisition or development, or both, of outdoor park and recreation facilities in the district. Any proceeds not expended for this purpose shall be transmitted to the Department of Parks and Recreation and deposited in the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

(c) Prior to transferring title to the park, the board of directors of the district shall hold one or more public hearings on the subject of the new facilities to be acquired or developed with the proceeds of the sale and shall determine what new facilities shall be acquired or developed.

(d) Prior to encumbering any proceeds from the sale, the district shall enter into an agreement with the Department of Parks and Recreation with respect to the facilities to be acquired or developed as provided in Section 5096.96 of the Public Resources Code.

SEC. 6. Item 3790-301-721 of the Budget Act of 1982 (Chapter 326, Statutes 1982) is amended to read:

PARKLANDS FUND OF 1980 PROGRAM

3790-301-721—For capital outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1980		70,687,000
Schedule:		
(a) American River Bikeway Project —working drawings and construction—Phase II	1,330,000	
(b) Angel Island SP—working drawings for restoration	155,000	
(d) Bidwell River Park—acquisition ..	700,000	

(e) China Camp SP—working drawings and construct village restoration		378,000
(f) Colonel Allensworth SHP—working drawings and construct restoration and site work		400,000
(g) El Presidio de Santa Barbara—acquisition		1,760,000
(i) Fort Humboldt SHP—restoration		554,000
(j) Humboldt Redwoods SP—bank protection study		350,000
(k) Huntington SB—working drawings and construct day use, parking, and rehabilitation—Phase I		6,500,000
(*l*) Indio Hills Palms—acquisition		705,000
(m) In-holding purchases		500,000
(o) Multicultural Center—Exposition Park—partial working drawings and construct multi-cultural center		4,205,000
(p) Notleys Landing—acquisition		2,400,000
(q) Old Sacramento SHP—working drawings and partial construction of 1849 scene		1,462,000
(r) Old Town San Diego SHP—working drawings and construct U.S. House, Light Freeman, and Wrightington Adobes		1,017,000
(s) San Simeon SB—working drawings and construct day use, campground, and sewer hookup		1,595,000
(t) San Pedro Beach—acquisition		1,600,000
(u) Schooner Gulch Project—acquisition		1,300,000
(v) Santa Suzanna Mountains Project—acquisition		2,350,000
(w) Minor Projects		2,066,000
(1) Handicapped retrofit	200,000	
(2) Enroute camping	300,000	
(3) Environmental camp sites	618,000	
(4) Volunteer projects	648,000	
(5) Coastal access projects	300,000	
(x) Design and construction planning		3,115,000
(y) Prebudget and appraisals		200,000
(aa) Angel Island SP—working draw-		

ings and construct sewage treatment facilities	210,000
(bb) Baldwin Hills Project—preliminary plans, working drawings and construct Phase I development	4,600,000
(cc) Chino Hills—acquisition	500,000
(dd) Columbia SHP—continuing restoration of Fallon Hotel and Theatre	1,001,000
(ee) East Bay Shoreline—acquisition	4,000,000
(ff) Fort Ross SHP—continuing restoration of Kuskov House	125,000
(gg) Monterey SHP—continuing restoration of Cooper-Molera Adobe	1,022,000
(hh) Old Town San Diego SHP—working drawings and partial construction of Rose-Robinson Building, Schoolroom, Alvarado Family Property, Alvarado Lucia House, and parking	738,000
(ii) San Onofre State Beach—working drawings and construct parcel 1 camping	4,000,000
(jj) Reimbursements	-3,000,000
(kk) Preliminary planning	200,000
(*ll*) Statewide Interpretive, Natural, and Archeological Management	100,000
(mm) McGrath SB—working drawings and construct Harbor Boulevard Bridge	500,000
(nn) Chino Hills Project—acquisition	3,000,000
(oo) New Brighton SB—Porter Sesnon acquisition	4,000,000
(pp) Hostel facilities—Kent Canyon Hostel, Mt. Tamalpais SP	243,000
(qq) Citrus Heritage Park—Mockingbird Canyon Project—acquisition and planning	3,000,000
(rr) Pismo SB—Grand Avenue Entrance—rehabilitation, working drawings and construction	580,000
(ss) San Joaquin Valley Agricultural Museum—development	3,000,000
(tt) Big Sur Project—acquisition	2,000,000
(uu) Fort Ross SHP—construct visitor center	800,000
(vv) Angel Island—continuing restoration	66,000
(ww) Opportunity purchases	360,000

(zz) South Monterey Bay Dunes—acquisition 1,000,000
(aaa) Hearst San Simeon SHM—construct visitor center 4,000,000

Provisions:

1. None of the funds appropriated for acquisition of parklands in this item shall be expended on the purchase of real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General.
2. No state funds appropriated in category (*l*) of this item for the acquisition of Indio Hills Palms shall be encumbered unless and until an agreement is entered into with the County of Riverside for the county to operate and maintain the project at no additional cost to the state.
3. No state funds appropriated in category (bb) of this item for Phase I development of Baldwin Hills shall be encumbered unless and until the following occur: (a) the Department of Finance has reviewed, and the State Public Works Board has approved, a long-term agreement between the Department of Parks and Recreation and the County of Los Angeles for the county to operate and maintain the project at no additional cost to the state; and (b) the County of Los Angeles has granted to the state the property necessary to complete the state development project.
4. An amount not to exceed $200,000 of the funds appropriated in category (m) of this item for in-holding purchases shall be used for acquisition of lands within the boundaries of Big Basin Redwoods State Park, which boundaries have been approved by the State Park and Recreation Commission.
5. None of the funds appropriated in category (ii) of this item shall be expended for the construction of parcel 1 camping at San Onofre State Beach unless and until $3,000,000 in reimbursements are received by the Department of Parks and Recreation from Southern California Edison and San Diego Gas and Electric, as identi-

fied in category (jj) of this item.

6. None of the funds appropriated in category (qq) of this item may be encumbered unless and until all the following requirements have been satisfied:

(a) The project receives the favorable recommendation of the State Park and Recreation Commission pursuant to subdivision (c) of Section 5096.162 of the Public Resources Code.

(b) The County of Riverside encumbers at least $197,646 in funds available to it for the project.

(c) The City of Riverside encumbers at least $429,-137 in funds available to it for the project and transfers in fee or leases to the state, at no cost to the state, Mockingbird Canyon Reservoir and at least 128 acres of land owned by the city beneath and surrounding the reservoir.

In addition, none of the funds appropriated in category (qq), or available from any other source, may be encumbered for the purchase of any land northeast of Irving Street in the City of Riverside.

8. Funds expended from the appropriation made by cateogry (pp) shall be reimbursed to the Parklands Fund of 1980 from funds currently available to the department and contained in Section 5(c)(2) of Chapter 1440, Statutes of 1976, upon such time as the current freeze on the State Parks and Recreation Fund is lifted, or from funds accumulated by the State from payments made to the State Treasury by condominium sellers or buyers under Section 2(b)(3) of Chapter 1066, Statutes of 1981, but the reimbursements and expenditures from these sources in combination shall not exceed the total appropriation contained in category (pp).

9. The state participation in the construction of the McGrath SB-Harbor Boulevard Bridge as proposed in category (mm) of this item shall not exceed the amount appropriated by this item. Any amount necessary for the construction of this bridge in excess of the funds appropriated in category (mm) shall be made available from the County of Ventura or other nonstate sources.

10. The state participation in the construction of the Hearst San Simeon SHM visitor center as proposed in category (aaa) of this item shall not exceed the amount appropriated in category

(aaa). Any amount necessary for the construction of this facility in excess of the funds appropriated in category (aaa) shall be made available from proposed concessionaires at this facility or other nonstate sources.

11. (a) Funds appropriated in category (tt) of this item for acquistion at the Big Sur Project shall be for the following parcels: Little Sur River (Hill Road Project); parcels 243-231-13, 243-231-15, 243-231-16, and 243-231-18 at Garapata State Beach; and parcel 601-818-00 at Julia Pfeiffer Burns State Park.

(b) In addition, the department shall enter into an interagency agreement with the Department of General Services for reimbursement of expenses related to the acquisition of those lands by the Department of General Services, and for the deposit of any funds recouped by the Department of General Services in connection with the acquisition, in excess of administrative costs, to the Parklands Fund of 1980.

(c) No funds appropriated in category (tt) shall be encumbered if AB 2929 of the 1981–82 Regular Session is enacted into law.

12. The Legislature requests that the Santa Barbara Trust for Historic Preservation develop a comprehensive plan for the restoration of El Presidio de Santa Barbara and that the Santa Barbara City Council hold public hearings on that plan.

No further appropriation for El Presidio will be made by the Legislature until the Santa Barbara City Council has expressed its approval of that appropriation.

13. No funds appropriated in category (ss) of this item for the construction of the San Joaquin Valley Agricultural Museum shall be encumbered unless and until the Department of Parks and Recreation has received an equal amount of funds from nonstate sources.

14. No funds appropriated in category (uu) for the construction of a visitor center at the Fort Ross SHP shall be encumbered if SB 705 of the 1981–82 Regular Session is enacted into law.

SEC. 7. It is the intent of the Legislature, if this bill and Assembly Bill 3453 are both chaptered and become effective on or before

January 1, 1983, both bills amend Section 5621 of the Public Resources Code, and this bill is chaptered after Assembly Bill 3453, that Section 5621 of the Public Resources Code, as amended by Section 2 of this act, shall remain operative until the effective date of Assembly Bill 3453, and that on the effective date of Assembly Bill 3453 Section 5621 of the Public Resources Code, as amended by Section 2 of this act, be further amended in the form set forth in Section 3 of this act to incorporate the changes in Section 5621 proposed by Assembly Bill 3453. Therefore, if this bill and Assembly Bill 3453 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill 3453 is chaptered before this bill and amends Section 5621, Section 3 of this act shall become operative on the effective date of Assembly Bill 3453.

SEC. 8. 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. 9. 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. 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:

Due to freeway construction, Paramount Park is relatively inaccessible and has lost much of its attractiveness to users. In order that the West Riverside Memorial District can acquire or develop substitute park and recreation facilities at the earliest possible time, and in order that certain grants under the Roberti-Z'berg Open-Space and Recreation Program Act be made available at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 880

An act to amend Section 66602 of the Education Code, relating to the California State University.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 66602 of the Education Code is amended to read:

66602. (a) The board shall be composed of the following four ex officio members: the Governor, the Lieutenant Governor, the Superintendent of Public Instruction, and the person named by the trustees to serve as the Chancellor of the California State University; a representative of the alumni associations of the state university and colleges, selected for a two-year term by the alumni council, California State University, which representative shall not be an employee of the California State University during the two-year term; and 16 appointive members appointed by the Governor and subject to confirmation by two-thirds of the Senate.

(b) There shall also be appointed by the Governor for a two-year term, a student from a California state university or college who shall have at least a junior year standing at the institution he or she attends, and shall remain in good standing as a student for the two-year term. In the selection of a student as a member of the board, the Governor shall appoint such student from a list of names of not more than five persons furnished by student representatives of each of the universities and colleges of the California State University. The student representative of a university or college shall be the elected student body president or, in the case of a university or college not having an elected student body president, the person receiving the highest number of votes cast at a student body election held to select such student representative. Any appointment to fill a vacancy of a student member shall be effective only for the remainder of the term of the person's office that became vacated.

(c) The Speaker of the Assembly shall be an ex officio member, having equal rights and duties with nonlegislative members.

(d) There shall also be appointed by the Governor for a two-year term, a faculty member from the California State University who shall be tenured at the California state university or college at which he or she teaches. In the selection of a faculty member as a member of the board, the Governor shall appoint the faculty member from a list of names of at least two persons furnished by the Academic Senate of the California State University.

The faculty member of the board appointed by the Governor pursuant to this subdivision shall not participate on any subcommittee of the board responsible for collective bargaining

negotiations.

SEC. 2. It is the intent of the Legislature that the amendment made by this act to Section 66602 of the Education Code which adds a faculty member of the California State University to the Trustees of the California State University shall not be construed as precluding input to the trustees by the Academic Senate of the California State University.

CHAPTER 881

An act to amend Sections 10081.5, 10231.2, 10232, and 10232.4 of, and to add Section 10233.1 to, the Business and Professions Code, relating to real estate.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 10081.5 of the Business and Professions Code is amended to read:

10081.5. Whenever the commissioner believes from evidence satisfactory to him or her that any real estate licensee has violated or is about to violate, the provisions of Section 10145, the commissioner may bring an action in the name of the people of the State of California, in the superior court of the State of California, to enjoin the licensee from continuing the violation or engaging therein or doing any act or acts in furtherance thereof.

In the event the commissioner has conducted an audit which reflects commingling or conversion of trust funds in excess of ten thousand dollars ($10,000), the court may enter an order restraining the licensee from doing any act or acts in furtherance thereof, and from further exercising the privileges of his or her license pending further order of the court, provided that a hearing shall be held on the order within five days after the date thereof.

After such hearing in the manner provided by law, an order may be entered appointing a receiver, or such other order as the court may deem proper.

A receiver appointed by the court pursuant to this section may, with the approval of the court, exercise all of the powers of the licensee or its officers, directors, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy of the licensee.

SEC. 2. Section 10231.2 of the Business and Professions Code is amended to read:

10231.2. (a) A real estate broker who, through express or implied representations that the broker or salespersons acting on the broker's behalf are engaging in acts for which a real estate license is required

by subdivision (d) or (e) of Section 10131, proposes to solicit and accept funds, or to cause the solicitation and acceptance of funds, to be applied to a purchase or loan transaction in which the broker will directly or indirectly obtain the use or benefit of the funds other than for commissions, fees and costs and expenses as provided by law for the broker's services as an agent, shall, prior to the making of any representation, solicitation, or presentation of the statement described in subdivision (b), submit the following to the Department of Real Estate:

(1) A true copy of the statement described in subdivision (b) complete except for the signature of the prospective lender or purchaser.

(2) A statement that the submittal is being made to the department pursuant to Section 10231.2.

(b) A broker making a solicitation pursuant to subdivision (a) shall deliver, or cause to be delivered, to the person solicited, the applicable completed statement described in Section 10232.5 not less than 24 hours before the earlier of the acceptance of any funds from that person by or on behalf of the broker or the execution of any instrument obligating the person to make the loan or purchase. The statement shall be signed by the prospective lender or purchaser and by the real estate broker or, on the broker's behalf, by a real estate salesperson licensed to the broker. 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.

(c) None of the provisions of subdivision (a) or (b) shall apply in the case of an offering of a security authorized pursuant to the provisions of Article 6 (commencing with Section 10237) or pursuant to applicable provisions of the Corporate Securities Law of 1968 (Section 25000 and following of the Corporations Code).

(d) In the case of a solicitation by a corporate real estate broker, the provisions of subdivisions (a) and (b) shall apply if the funds solicited are intended for the direct or indirect use or benefit of an officer or director of the corporation or of a person with a 10 percent or greater ownership interest in the corporation.

SEC. 3. Section 10232 of the Business and Professions Code is amended to read:

10232. (a) Except as otherwise expressly provided, the provisions of Sections 10232.1 to 10232.5, inclusive, are applicable to every real estate broker who intends or reasonably expects in any successive 12 months to negotiate any combination of 20 or more of the following transactions pursuant to subdivision (d) or (e) of Section 10131 or Section 10131.1 in an aggregate amount of more than two million dollars ($2,000,000):

(1) Loans secured directly or collaterally by liens on real property or on business opportunities as agent for another or others.

(2) Sales or exchanges of real property sales contracts or promissory notes secured directly or collaterally by liens on real

property or on business opportunities as agent for another or others.

(3) Sales or exchanges of real property sales contracts or promissory notes secured directly or collaterlly by liens on real property as the owner of such notes or contracts.

Persons under common management, direction or control in conducting the activities enumerated above shall be considered as one person for the purpose of applying the above criteria.

(b) The negotiation of any combination of five or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than five hundred thousand dollars ($500,000) in any three successive months or any combination of 10 or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than one million dollars ($1,000,000) in any successive six months shall create a rebuttable presumption that the broker intends to negotiate new loans and sales and exchanges of an aggregate amount that will meet the criteria of subdivision (a).

(c) Loans and sales negotiated by a broker shall not be counted in determining whether the broker meets the criteria of subdivisions (a) and (b) if any of the following apply:

(1) The lender or purchaser is the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, a bank, a bank holding company, a wholly-owned subsidiary of a bank holding company, a savings and loan association, a savings and loan association holding company, an industrial loan company, a credit union, an insurance company, or a pension trust.

(2) The loans and sales are negotiated 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 (Section 25000 and following of the Corporations Code).

(d) If two or more real estate brokers who are not under common management, direction, or control, cooperate in the negotiation of a loan or the sale or exchange of a promissory note or real property sales contract and share in the compensation for their services, the dollar amount of the transaction shall be allocated according to the ratio that the compensation received by each broker bears to the total compensation received by all brokers for their services in negotiating the loan or sale or exchange.

(e) A real estate broker who on the effective date of this section satisfies the criteria of subdivision (a) or (b) shall, within 30 days thereafter, notify the Department of Real Estate in writing of that fact. A broker who first meets any of the criteria of subdivision (a) or (b) after January 1, 1982, shall notify the department in writing within 30 days after such a determination is made.

SEC. 4. 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, except as provided in subdivision (c), 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) shall not apply with respect to 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) of this chapter or applicable provisions of the Corporate Securities Law of 1968 (Section 25000 and following 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 of 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.

(4) A prospective lender or purchaser, if that lender or purchaser is the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, a bank, a bank holding company, a savings and loan association, a savings and loan association holding company, an industrial loan company, a credit union, an insurance company, or a pension trust.

(c) When the broker has custody of funds of a prospective lender or purchaser which were received and are being maintained with the express permission of the owner and in accordance with law, and the broker retains the funds in an escrow depository or a trust fund account pending receipt of the owner's express written instructions to disburse the funds for a loan or purchase, the broker shall cause the disclosure statement to be delivered to the owner and shall

obtain the owner's written consent to the proposed disbursement before making the disbursement. Unless the broker has a written agreement with the owner as provided in Section 10231.1, the broker shall transmit to the owner not later than 60 days after receipt, all funds then in the broker's custody for which the owner has not given written instructions authorizing disbursement.

SEC. 5. Section 10233.1 is added to the Business and Professions Code, to read:

10233.1. If a real estate broker in servicing a real property sales contract or a promissory note secured directly or collaterally by a lien on real property for the mortgagee, beneficiary, or owner of the note or contract, causes funds other than funds received from the obligor of the note or contract to be applied toward a payment to protect the security of the note or contract being serviced, including the payment of debt service on an obligation secured by the same real property having priority over the mortgage or deed of trust securing the promissory note that the broker is servicing, the broker shall, not later than 10 days after making any such payment, give written notice to the mortgagee, beneficiary, or owner of the date and amount of payment, the name of the person to whom payment was made, the source of funds, and the reason for making the payment.

CHAPTER 882

An act to amend Section 1280.7 of the Insurance Code, relating to cooperative corporations.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 1280.7 of the Insurance Code is amended to read:

1280.7. This chapter and the other provisions of this code, except as set forth in this paragraph, shall not apply to or affect unincorporated interindemnity or reciprocal or interinsurance contracts between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code whose members consist solely 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. The provisions of Chapter 3 (commencing with Section 330) of Part 1 of Division 1 shall apply to unincorporated interindemnity or reciprocal or interinsurance contracts. Such unincorporated

interindemnity or reciprocal or interinsurance contracts shall comply with all of the following requirements:

(a) Each participating member shall enter into and, concurrently therewith, receive an executed copy of a trust agreement, which shall govern the collection and disposition of all funds of the interindemnity arrangement.

The trust agreement shall, as a minimum, contain provision for all the following matters:

(1) An initial trust corpus of not less than ten million dollars ($10,000,000), which corpus shall be a trust fund to secure enforcement of the interindemnity arrangement. The average initial contribution to such corpus shall be not less than twenty thousand dollars ($20,000) per member participating in the interindemnity arrangement. No such interindemnity arrangement shall become operative until the requisite minimum reserve trust fund has been established by such participating members.

(2) The reserve trust fund created by such trust agreement shall be administered by a board of trustees of three or more members, all of whom shall be physicians and surgeons licensed in California, participating members in the interindemnity arrangement, and elected biennially or more frequently by at least a majority of all members participating in the interindemnity arrangement.

(3) The board of trustees shall be the custodian of all funds of the interindemnity arrangement, and all such funds shall be deposited in such bank or banks and savings and loan associations in California as the board may designate, and each such account shall require two or more signatories for withdrawal of funds. The authorized signatories shall be appointed by the board and shall be physicians and surgeons licensed in California and participating members in the interindemnity arrangement. Each signatory on such accounts shall maintain, at all times while empowered to draw on such funds, for the benefit of the interindemnity arrangement, a bond against loss suffered through embezzlement, mysterious disappearance, holdup or burglary or other loss issued by a bonding company licensed to do business in California in a penal sum of not less than one hundred thousand dollars ($100,000).

(4) All funds held in trust which are in excess of current financial needs shall be invested and reinvested from time to time, under the direction of the board of trustees, in eligible securities, as defined in Section 16430 of the Government Code, in portfolios of eligible securities, in exchange traded financial futures contracts or exchange traded options contracts to hedge investment in those eligible securities, or in certificates of deposits or time deposits issued by banks and savings and loan associations in California duly insured by instrumentalities of the United States government.

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 by, or forbearances

of, any trust established by a cooperative corporation providing indemnity pursuant to this section.

(5) The income earned on the corpus of the trust fund shall be the source for the payment of the claims, costs, judgments, settlements, and costs of administration contemplated by such interindemnity arrangement, and to the extent such income is insufficient for such purposes, the board of trustees shall have the power and authority to assess participating members for all amounts necessary to meet the obligations of such interindemnity arrangement in accordance with the terms thereof. Where necessary in the best interests of the interindemnity arrangement, the board of trustees may make assessments to increase the corpus of the trust fund in accordance with the terms of such interindemnity arrangement. Any assessment levied against a member shall be the personal obligation of such member. Any person who obtains a final judgment of recovery for medical malpractice against a member of such interindemnity arrangement shall have, in addition to any other remedy, the right to assert directly all rights to indemnification which the judgment debtor has under the interindemnity arrangement. Such final judgment shall be a lien on the reserve trust fund to secure payment of such judgment, limited to the extent of the judgment debtor's rights to indemnification.

Any change in the assessment agreement between the interindemnity arrangement and its membership shall be submitted to the entire membership for ratification. If the ratification process is to be performed by a mail ballot, a ballot shall be sent to each member by certified mail. Within 45 days after the posted date on the certified letter containing the ballot, each member who decides to vote on the assessment change shall return his or her ballot to the interindemnity arrangement for the tallying of the ballots. An affirmative vote of 75 percent of those voting shall be required to effectuate any change in the assessment agreement.

If a change in the assessment agreement is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and the proposed assessment change by certified mail posted at least 45 days prior to the meeting. Seventy-five percent of those present in person or by proxy at the meeting shall be required to effectuate any change in the assessment agreement.

(6) Each participating member shall be covered by such interindemnity arrangement for not less than one million dollars ($1,000,000) for each occurrence of professional negligence, with the terms and conditions of such coverage to be specified in the trust agreement, except that such interindemnity arrangement may provide participating members with an aggregate limit for all payments on behalf of such member and may provide participating members with less than one million dollars ($1,000,000) of such coverage for each occurrence of professional negligence if the interindemnity arrangement obtains for the benefit of such

members reinsurance of excess limits coverage in an amount which when added to the coverage provided by such interindemnity arrangement would equal not less than one million dollars ($1,000,000) for each occurrence of professional negligence.

Any change in the coverage provided for professional negligence by the trust agreement between the interindemnity arrangement and its membership shall be submitted to the entire membership for ratification. If the ratification process is to be performed by a mail ballot, a ballot shall be sent to each member by certified mail. Within 45 days after the posted date on the certified letter containing the ballot, each member who decides to vote on the coverage change shall return his or her ballot to the interindemnity arrangement for the tallying of the ballot. An affirmative vote of 75 percent of those voting shall be required to effectuate any change in the coverage provided for professional negligence by the trust agreement.

If any such change is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and the proposed coverage change by certified mail posted at least 45 days prior to the meeting. An affirmative vote of 75 percent of the membership present at the meeting, in person or by proxy, shall be required to effectuate any such change, except that at least 50 percent of the entire membership must agree to any such change.

(7) Withdrawal of all, or any portion of, the corpus of the reserve trust fund shall be upon the written authorization signed by at least two-thirds of the members of the board of trustees.

(8) The board of trustees shall cause both of the following to be furnished to each member participating in such interindemnity arrangement, and to be filed with the Commissioner of Corporations:

(A) Within 90 days after the end of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of such year, a statement of the revenue and expenditures of the interindemnity arrangement, and a statement of the changes in corpus of the reserve trust for such year, in each case accompanied by a certificate signed by a firm of independent certified public accountants selected by the board of trustees indicating that such firm has conducted an audit of such statements in accordance with generally accepted auditing standards and indicating the results of such audit.

(B) Within 45 days after the end of each of the first three quarterly periods of each fiscal year a statement of the assets and liabilities of the interindemnity arrangement as of the end of such quarterly period, a statement of the revenue and expenditures of the interindemnity arrangement and a statement of the changes in corpus of the reserve trust for such period, in each case accompanied by a certificate signed by a majority of the members of the board of trustees to the effect that such statements were prepared from the official books and records of the interindemnity arrangement.

(C) In addition to the statements required to be filed pursuant to this paragraph, the board of trustees shall annually file with the

Commissioner of Corporations an authorization for disclosure to the commissioner of all financial records pertaining to the interindemnity arrangement. For the purpose of this clause, the authorization for disclosure shall also include the financial records of any association, partnership, or corporation that has management or control of the funds or the operation of the interindemnity arrangement.

(9) The trust agreement shall also provide for all the following:

(A) In the event a participating member who is in full compliance with the trust agreement, including the payment of all outstanding dues and assessments, dies, the initial contribution made by the decedent shall be returned to such member's estate or designated beneficiary; the indemnity coverage shall continue for the benefit of the decedent's estate in respect of occurrences during the time the decedent was a participating member; and neither the person receiving the repayment of the initial contribution nor the decedent's estate shall be responsible for any assessments levied following the death of the member.

(B) A participating member who is then in full compliance with the trust agreement and who has reached the age of 65 and who has retired completely from the practice of medicine may elect to retire from the interindemnity arrangement, in which case such member shall not be responsible for assessments levied following the date notice of retirement is given to the trust. Following such retirement, the indemnity coverage shall continue for the benefit of such member in respect of occurrences prior to the time such member retired from the interindemnity arrangement. Such retired member's initial contribution shall be repaid 10 years from the date the notice of retirement is received by the trust, or such earlier date as specified in the trust agreement.

(C) During any period in which a participating member, who is then in full compliance with the trust agreement, has, in the judgment of the board of trustees, become unable to perform any and every duty of his or her regular professional occupation, such participating member may request disability status in accordance with the terms of the interindemnity arrangement. During any period of disability status, such member shall not be responsible for assessments levied during such period and, where so provided in the interindemnity arrangement, all indemnity coverage, both as to defense and payment of claims, shall terminate as to occurrences arising out of the actions of such participating member during the period of disability status.

(D) In the event a participating member fails to pay any assessment when the same is due, the board of trustees may terminate such person's membership status if such failure to pay is not cured within 30 days from the date the assessment was due. Upon such termination the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate

as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defe ıse services to such person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following such termination.

(E) In the event a participating member fails to comply with any provision of the trust agreement (other than a failure to pay assessments when due), the board of trustees may terminate such person's membership status if such failure to comply is not cured within 60 days from the date such person is notified of the failure; provided that before such membership status may be terminated such person shall be given the right to call for a hearing before the board of trustees (to be held before the expiration of such 60-day period), at which hearing such person shall be given the opportunity to demonstrate to the board of trustees that no failure to comply has occurred or, if it has occurred, that it has been cured. Upon such termination, the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following such termination.

(F) A participating member who is then in full compliance with the trust agreement may elect voluntarily to terminate his or her membership in the interindemnity arrangement. Upon such voluntary termination, such person may further elect to cease being responsible for future assessments, or to continue to pay such assessments until such time as such person's initial contribution is repaid. In the event such person elects to cease being responsible for future assessments, the indemnity coverage shall thereupon terminate and such person shall either be responsible for his or her own exposure for acts committed while a participating member in the interindemnity arrangement, or he or she may request the interindemnity arrangement to purchase or provide, at the cost of such person, coverage for such exposure. The initial contribution of such person shall be repaid on the 10th anniversary of the date such contribution was made. In the event such person elects to continue to be responsible for assessments, the indemnity coverage shall continue in respect of occurrences prior to the date of such voluntary termination, and the initial contribution of such person shall be repaid at such time as the board of trustees is satisfied that (i) there are no claims pending against such person in respect of occurrences during the time such person was a participating member, and (ii) the statute of limitations has run on all claims which might be asserted against such person in respect of occurrences during such time. In

no event shall such repayment be made earlier than the 10th anniversary of the date such contribution was made.

(G) The board of trustees shall have the right to terminate the membership of a participating member where the board of trustees determines that such termination is in the best interests of the interindemnity arrangement even though such person has complied with all of the provisions of the trust agreement. Such a termination may be effected only if at least two-thirds of the members of the board of trustees indicate in writing their decision so to terminate. If the board of trustees proposes so to terminate a member, such member shall have the right to call a special meeting of all participating members in accordance with the rules established by the board of trustees for the purpose of voting on whether or not such member shall be so terminated. Such member shall not be so terminated if at least two-thirds of the participating members present, in person or by proxy, indicate that such member should not be so terminated. In the event a member is so terminated, such person shall elect either: (i) to request the return of his or her initial contribution, in which case the same shall be repaid and the indemnity coverage shall thereupon terminate as to all claims then pending against such person and in respect to all occurrences prior to the date of such termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to such person, the interindemnity arrangement shall continue to provide those services for a period of 30 days to enable such person to assume his or her own defense; or (ii) to release all rights to the return of such initial contribution, in which case the indemnity coverage shall continue for the benefit of such member in respect of occurrences during the time such person was a participating member and such person shall have no responsibility for assessments levied following such termination. The interindemnity arrangement may provide that if a member is so terminated and fails to make the election set forth herein within 45 days of the date of notification of termination of membership, such participating member shall be deemed to have elected to release all rights to a return of his or her initial contribution, in which case indemnity coverage shall apply for the benefit of the member with respect to occurrences occurring prior to the termination.

(10) Each member participating in such interindemnity arrangement shall have the right of access to, and the inspection of, the books and records of the interindemnity arrangement, which rights shall be similar to the corporate shareholders pursuant to Section 3003 of the Corporations Code, or, commencing January 1, 1977, Sections 1600 to 1605, inclusive, of the Corporations Code.

(11) There shall be a meeting of all members participating in the interindemnity arrangement, at least annually, after not less than 10 days' written notice has been given, at a location reasonably convenient to such participating members and on a date which is within a reasonable period of time following the distribution of the

annual financial statements.

(12) Notwithstanding Sections 12453 and 12703 of the Corporations Code, on any matter to be voted upon by the membership at either a regular or special meeting, a member shall have the right to vote in person or by written proxy filed with the corporate secretary prior to such meeting. No such proxy shall be made irrevocable, nor be valid beyond the earliest of the following dates:

(A) The date of expiration set forth in the proxy; or

(B) The date of termination of membership; or

(C) Eleven months from the date of execution of the proxy; or

(D) Such time as may be specified in the bylaws, not to exceed 11 months.

(13) The interindemnity arrangement, and the reserve trust fund incident thereto, shall be subject to termination at any time by the vote or written consent of not less than three-fourths of the participating members.

(b) The board of trustees shall cause to be recorded with the office of the county recorder of the county of the principal place of business of the interindemnity arrangement within 90 days following the end of each fiscal year, a written statement, executed by a majority of the board of trustees under penalty of perjury, reciting that each member participating in such interindemnity arrangement was mailed a copy of the annual financial statement and quarterly audit certificates by first-class mail, postage prepaid, required pursuant to paragraph (8) of subdivision (a).

(c) Each person solicited to become a participating member in such an interindemnity arrangement shall receive in writing, at least 48 hours prior to the execution by the prospective participating member of the trust agreement, and at least 48 hours prior to the payment by such prospective participating member of any consideration in connection with such interindemnity arrangements, the following information:

(1) A copy of the articles of incorporation and bylaws of the cooperative corporation and a copy of the form of trust agreement to be executed by such prospective participating member.

(2) A disclosure statement regarding the interindemnity arrangement. The disclosure statement shall contain on the first or cover page a legend in boldface type reading substantially as follows:

"THE INTERINDEMNITY ARRANGEMENT CONTEMPLATED HEREIN PROVIDES THAT PARTICIPATING MEMBERS HAVE UNLIMITED PERSONAL LIABILITY FOR ASSESSMENTS WHICH MAY BE LEVIED TO PAY FOR THE PROFESSIONAL NEGLIGENCE LIABILITIES COVERED BY THIS ARRANGEMENT. NO ASSURANCES CAN BE GIVEN REGARDING THE AMOUNT OR FREQUENCY OF ASSESSMENTS WHICH MAY BE SO LEVIED, OR THAT ALL PARTICIPATING MEMBERS WILL MAKE TIMELY PAYMENT OF THEIR ASSESSMENTS TO COVER THE PROFESSIONAL

NEGLIGENCE LIABILITY OF A PARTICIPATING MEMBER."

(3) The disclosure statement shall further contain all of the following information:

(A) The amount, nature and terms and conditions of the professional negligence coverage available under the interindemnity arrangement.

(B) The amount of the initial contribution required of each participating member and a statement of the minimum number of members and aggregate contributions required for the interindemnity arrangement to commence.

(C) The names, addresses and professional experience of each member of the board of trustees.

(D) The requirements for admission as a participating member.

(E) A statement of the services to be provided under the interindemnity arrangement to each participating member.

(F) A statement regarding the obligation of each member to pay assessments and the consequences for failure to do so.

(G) A statement of the rights and obligations of a participating member in the event such member dies, retires, becomes disabled or terminates participation for any reason, or the interindemnity arrangement terminates for any reason.

(H) A statement regarding the claims administration services to be provided, indicating whether these services will be delegated to others pursuant to a contractual arrangement.

(I) A statement of the voting rights of the members and the circumstances under which participation of such a member may be terminated and under which the interindemnity arrangement may be terminated.

(J) If any statement of estimated or projected financial information for the interindemnity arrangement is used, a statement of such estimation or projection and a summary of the data and assumptions upon which it is based.

(4) A list with the names and addresses of all then current participating members of the interindemnity arrangement.

(d) No officer, director, trustee, employee or member of the interindemnity arrangement or the cooperative corporation shall receive, or be entitled to receive, any payment, bonus, salary, income, compensation or other benefit whatsoever, either from the reserve trust fund or the income therefrom or from any other funds of the interindemnity arrangement or the members thereof based on the number of participating members, or the amount of the reserve trust fund or other funds of the interindemnity arrangement.

(e) A peer review committee or committees shall be established by the trust agreement to review the qualifications of any physician and surgeon to participate or continue to participate in such interindemnity arrangement, and to review the quality of medical services rendered by any participating member, as well as the validity of medical malpractice claims made against participating members. Any physician and surgeon, prior to becoming a

participating member of such interindemnity arrangement, shall be reviewed and approved by a majority of the members of such peer review committee. No peer review committee, or any of its members, shall be liable for any action taken by such committee in reviewing the qualifications of a physician and surgeon to participate or continue to participate, or the quality of medical services rendered, or the validity of a medical malpractice claim, unless it is alleged and proved that such action was taken with actual malice.

(f) The following are hereby defined as unfair methods of competition and deceptive acts or practices with respect to cooperative corporations or interindemnity arrangements provided for in this section.

(1) Making any false or misleading statement as to, or issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any interindemnity arrangement or the benefits or advantages promised thereby, or making any misleading representation or any misrepresentation as to the financial condition of such interindemnity arrangement, or making any misrepresentation to any participating member for the purpose of inducing or tending to induce such member to lapse, forfeit, or surrender his or her rights to indemnification under such interindemnity arrangement. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."

(2) Making or disseminating or causing to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatsoever, any statement containing any assertion, representation, or statement with respect to such cooperative corporations or interindemnity arrangements, or with respect to any person in the conduct of such cooperative corporations or interindemnity arrangements, which is untrue, deceptive, or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."

(3) Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in an unreasonable restraint of, or monopoly in, such cooperative corporations or interindemnity arrangements.

(4) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, or delivered to any

person, or placed before the public any false statement of financial condition of such a cooperative corporation or interindemnity arrangement with intent to deceive.

(5) Making any false entry in any book, report, or statement of such a cooperative corporation or interindemnity arrangement with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such a cooperative corporation or interindemnity arrangement is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to such a cooperative corporation or interindemnity arrangement in any book, report, or statement of such a cooperative corporation or interindemnity arrangement.

(6) Making or disseminating, or causing to be made or disseminated, before the public in this state, in any newspaper or other publication, or any other advertising device, or by public outcry or proclamation, or in any other manner or means whatever, whether directly or by implication, any statement that such a cooperative corporation or interindemnity arrangement is a member of the California Insurance Guarantee Association, or insured against insolvency as defined in Section 119.5. This paragraph shall not be interpreted to prohibit any activity of the California Insurance Guarantee Association or of the commissioner authorized, directly or by implication, by Article 14.2 (commencing with Section 1063) of Chapter 1 of this part.

(7) Knowingly committing or performing with such frequency as to indicate a general business practice any of the following unfair claims settlement practices:

(A) Misrepresenting to claimants pertinent facts or provisions relating to any coverage at issue.

(B) Failing to acknowledge and act promptly upon communications with respect to claims arising under such interindemnity arrangements.

(C) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under such interindemnity arrangements.

(D) Failing to affirm or deny coverage of claims within a reasonable time after proof of claim requirements have been completed and submitted by the participating member.

(E) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

(F) Compelling participating members to institute litigation to recover amounts due under an interindemnity arrangement by offering substantially less than the amounts ultimately recovered in actions brought by such participating members when such participating members have made claims under such interindemnity arrangements for amounts reasonably similar to the amounts

ultimately recovered.

(G) Attempting to settle a claim by a participating member for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made part of an application for membership in such an interindemnity arrangement.

(H) Attempting to settle claims on the basis of an interindemnity arrangement which was altered without notice to the participating member.

(I) Failing, after payment of a claim, to inform participating members, upon request by them, of the coverage under which payment has been made.

(J) Making known to claimants a practice of such cooperative corporation or interindemnity arrangement of appealing from arbitration awards in favor of claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(K) Delaying the investigation or payment of claims by requiring a claimant, or his or her physician, to submit a preliminary claim report, and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(L) Failing to settle claims promptly, where liability has become apparent, under one portion of an interindemnity arrangement in order to influence settlements under other portions of the interindemnity arrangement.

(M) Failing to provide promptly a reasonable explanation of the basis relied on in the interindemnity arrangement, in relation to the facts of applicable law, for the denial of a claim or for the offer of a compromise settlement.

(N) Directly advising a claimant not to obtain the services of an attorney.

(O) Misleading a claimant as to the applicable statute of limitations.

(g) Notwithstanding any contrary provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code, it shall not be necessary to hold a meeting of members of such cooperative corporation for the purpose of electing directors if the bylaws provide such election may be held by certified mail balloting. Mail balloting may also be used in conjunction with a meeting at which directors are to be elected and all mail ballots shall count toward establishing a quorum for such meeting for the limited purpose of the issues set forth in the mail ballot. Directors shall be elected as follows:

(1) The candidates receiving the highest number of votes, up to the number of directors to be elected, by a specified date at least 45 days but not later than 60 days after the ballots are first mailed to the members (or the date of a meeting of members held in conjunction therewith) shall be elected.

(2) In the event that no candidate receives a majority of the votes cast for a vacant office, a runoff election shall be held between the two candidates receiving the highest number of votes cast. The runoff election shall be held at least 45 days but not more than 60 days after the ballots for such election are mailed. In the event that there is more than one office for which no candidate receives a majority of the votes cast, the candidates for the runoff shall be twice the number of vacant offices, and shall be those persons who received the highest number of votes therefor.

Such certified mail ballots shall be kept on file for a period of three months after all vacant board positions have been filled, and shall be subject to inspection at any reasonable time by any members of the cooperative corporation.

SEC. 2. It is the intent of the Legislature that this act create and authorize trusts established by cooperative corporations providing indemnity pursuant to Section 1280.7 of the Insurance Code as an exempt class of persons pursuant to Section 1 of Article XV of the Constitution.

CHAPTER 883

An act to amend Sections 18537, 18902, and 19054 of, and to add Section 18532.2 to, the Government Code, relating to state civil service employment lists.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 18532.2 is added to the Government Code, to read:

18532.2. "Departmental eligible list" means a list of persons who have been examined in an open competitive examination and who are eligible for certification for a specific class for a particular appointing power.

SEC. 2. Section 18537 of the Government Code is amended to read:

18537. "Employment list" means preferred limited-term list, limited-term list, eligible list, departmental eligible list, subdivisional promotional list, departmental promotional list, multidepartmental promotional list, servicewide promotional list, departmental reemployment list, subdivisional reemployment list and general reemployment list.

SEC. 3. Section 18902 of the Government Code is amended to read:

18902. The board may divide the state into districts and departments and establish district eligible lists and departmental

eligible lists therefor. A person on an eligible list or a departmental eligible list may be included in any other eligible or departmental eligible list on which he or she indicates a desire to be placed, when in the judgment of the board the best interests of the state are served thereby.

SEC. 4. Section 19054 of the Government Code is amended to read:

19054. The order of preference in certifying eligibles shall be: subdivisional reemployment list, departmental reemployment list, general reemployment list, subdivisional promotional list, departmental promotional list, multidepartmental promotional list, servicewide promotional list, departmental eligible list, and eligible list. The preferred limited-term list, in accordance with board rule, may be given preference over the departmental eligible list and the eligible list when making limited-term appointments.

SEC. 5. Section 19054 of the Government Code is amended to read:

19054. Except as provided in Section 19054.1, the order of preference in certifying eligibles shall be: subdivisional reemployment list, departmental reemployment list, general reemployment list, subdivisional promotional list, departmental promotional list, multidepartmental promotional list, servicewide promotional list, departmental eligible list, and eligible list. The preferred limited-term list, in accordance with board rule, may be given preference over the departmental eligible list, and the eligible list when making limited-term appointments.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill 3325 are both chaptered and become effective January 1, 1983, both bills amend Section 19054 of the Government Code, and this bill is chaptered after Assembly Bill 3325, that the amendments to Section 19054 proposed by both bills be given effect and incorporated in Section 19054 in the form set forth in Section 5 of this act. Therefore, Section 5 of this act shall become operative only if this bill and Assembly Bill 3325, are both chaptered and become effective January 1, 1983, both amend Section 19054, and this bill is chaptered after Assembly Bill 3325, in which case Section 4 of this act shall not become operative.

CHAPTER 884

An act to add Section 1463.02 to the Penal Code, and to amend Section 5008 of, and to add Section 5008.4 to, the Public Resources Code, relating to parks and recreation.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 1463.02 is added to the Penal Code, to read:

1463.02. Notwithstanding Section 1463, out of moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred once a month into the State Treasury to the credit of the State Parks and Recreation Fund an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon conviction of any person or upon the forfeiture of bail from any person arrested or notified by a peace officer of the Department of Parks and Recreation and charged with committing any public offense occurring on or about property owned, administered, or controlled by the Department of Parks and Recreation, and an amount equal to the remaining 50 percent shall be transferred into the general fund of the county.

SEC. 2. Section 5008 of the Public Resources Code is amended to read:

5008. The department shall protect the state park system from damage and preserve the peace therein.

The director may designate any officer or employee of the department a peace officer for the state park system. The primary duties of the peace officer shall be the enforcement of the rules and regulations of the department, the provisions of Chapter 5 (commencing with Section 650) of Division 3 of the Harbors and Navigation Code, the rules and regulations of the Department of Boating and Waterways, and the provisions of Chapter 2 (commencing with Section 9850) of Division 3.5 of the Vehicle Code, and to arrest persons for the commission of public offenses within the state park system. The authority and powers of the peace officer shall be limited to those conferred by law upon peace officers listed in Section 830.2 of the Penal Code.

Any person who violates the rules and regulations established by the department is guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail not exceeding 90 days, or by a fine not exceeding five hundred dollars ($500), or by both that fine and imprisonment, except that at the time a particular action is commenced, the judge may, considering the recommendation of the prosecuting attorney, reduce the charged offense from a misdemeanor to an infraction. Any person convicted of the offense after such a reduction shall be punished by a fine of not less than five dollars ($5) nor more than five hundred dollars ($500).

SEC. 3. Section 5008.4 is added to the Public Resources Code, to read:

5008.4. Moneys deposited in the State Parks and Recreation Fund pursuant to Section 1463.02 of the Penal Code are available for the following purposes, when appropriated therefor:

(a) The payment of refunds of fines and forfeitures determined by the Controller to have been erroneously deposited in the fund,

subject to approval by the State Board of Control prior to payment.

(b) The training of department employees, which is mandated or approved by the Commission on Peace Officer Standards and Training, as specified in Chapter 1 (commencing with Section 13500) of Title 4 of Part 4 of the Penal Code, and for other public safety training of department employees, including, but not limited to, first aid, rescue, cardiopulmonary resuscitation, and emergency medical technician training.

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, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 885

An act to amend Sections 76160 and 84604.9 of the Education Code, relating to community colleges.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 76160 of the Education Code is amended to read:

76160. Any student under 21 years of age, and any student under 25 years of age who has been honorably discharged or is otherwise returning from active or inactive military service with the armed forces of the United States, who resides in this state and more than 90 miles from the nearest public community college attendance center where the student can satisfy his or her program requirements, measured by the usual vehicular route between the student's home and the attendance center, may request to attend credit courses at any public community college in the state, whether or not the student's residence is in a district maintaining a community college. The governing board of the district maintaining the community college designated by the student shall admit the student provided all requirements for admission are met.

The provisions of this section shall not apply to any student residing in a district maintaining a community college if that district

maintains adequate dormitories or housing facilities or provides adequate transportation for the student between the student's home and the community college attendance center.

If the student resides within territory not included within any community college district and resides more than 90 miles from the nearest community college attendance center, measured by the usual vehicular route between the student's home and the attendance center, there shall be paid to the parents or other persons having charge or control of the student and directly to adult students and married minors, by the district in which the student attends, a maintenance allowance not to exceed four dollars ($4) per calendar day, including weekends and school holidays, for the portion of a semester, quarter, or other session or term in which the student is enrolled full time in credit classes in a community college under this section. Community college districts shall receive reimbursement from the chancellor's office for allowances paid to students from nondistrict territory for the prior fiscal year not to exceed the maximum amount as provided in Section 84604.9.

No later than 60 days after the close of each fiscal year the chancellor shall determine the daily allowance rate for the prior fiscal year. If claims made by community colleges exceed total funds raised by nondistrict territories for that purpose prior to July 1, 1978, the chancellor shall prorate the allowances made under this section. No later than 90 days after the close of each fiscal year the community college districts shall pay eligible students at the rate prescribed by the chancellor.

The chancellor shall prescribe procedures for the submission of claims by community college districts and verification of the claims by the appropriate county superintendent of schools.

For the purpose of this section, a person shall be deemed to be honorably discharged from the armed forces (a) if he or she was honorably discharged from the armed forces of the United States or (b) if he or she was inducted into the armed forces of the United States under the "Universal Military Training and Service Act," and (1) satisfactorily completes his or her period of training and service under that act and is issued a certificate to that effect pursuant to that act, or (2) having served honorably on active duty was transferred to a reserve component of the armed forces of the United States pursuant to that act, or (3) was otherwise released pursuant to that act under honorable conditions.

For the purposes of this section, the term "armed forces of the United States" shall include all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretaries of the Army, Navy, and Air Force, and all components of the Coast Guard.

SEC. 2. Section 84604.9 of the Education Code is amended to read:

84604.9. Notwithstanding any other provision of law, an amount not to exceed the revenue identified in Section 84721 relative to

in-lieu of transportation allowances shall be allocated by the chancellor to community college districts as maintenance allowances as provided for in Section 76160, for the prior fiscal year.

SEC. 3. This act shall be deemed operative for the entire 1982–83 fiscal year as though it had been enacted into the law and become operative July 1, 1982.

CHAPTER 886

An act to amend Sections 10240, 10241, and 10248.3 of, to add Sections 10232.25 and 10241.2 to, and to repeal Sections 10232 and 10232.1 of, the Business and Professions Code, relating to real estate brokers.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 10232 of the Business and Professions Code, as added by Chapter 530 of the Statutes of 1981, is repealed.

SEC. 2. Section 10232.1 of the Business and Professions Code, as added by Chapter 530 of the Statutes of 1981, is repealed.

SEC. 3. Section 10232.25 is added to the Business and Professions Code, to read:

10232.25. (a) A real estate broker who meets the criteria of subdivision (a) of Section 10232 shall, within 30 days after the end of each of the first three fiscal quarters of the broker's fiscal year, or within such additional time as the Real Estate Commissioner may allow for good cause, file with the commissioner a trust funds status report as of the last day of the fiscal quarter which shall include the following:

(1) A representation that the form and content of the trust account records of the broker are in compliance with the regulations of the Real Estate Commissioner.

(2) A representation that the broker's trust fund bank account is maintained in compliance with the regulations of the Real Estate Commissioner.

(3) A statement of the broker's aggregate accountability for trust funds.

(4) A report of trust funds in the broker's custody consisting of the trust account bank statements as of the bank's accounting date immediately preceding the end of the fiscal quarter and a schedule of withdrawals and deposits adjusting the account to its true balance as of the end of the fiscal quarter.

(5) A statement explaining any difference in amount between the broker's total accountability under paragraph (3) above and the adjusted trust account bank balance under paragraph (4) above.

(b) Each report made pursuant to subdivision (a) shall include the following:

(1) The name, address, and position or capacity of the person who prepared the report.

(2) A declaration under penalty of perjury by the broker that the information and representations in the report are true, complete, and correct to the best of the broker's knowledge and belief. The declaration in a report submitted on behalf of a corporate broker shall be signed by a broker-officer through whom the corporation is licensed as a real estate broker and by the chief executive officer of the corporation if he or she is not the signing broker-officer.

(c) If a broker fails to file a report required under subdivision (a) within the time permitted, 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.

(d) 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, did not during a fiscal quarter, accept for the benefit of a person to whom the broker is 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 fiscal quarter or within such additional time as the commissioner may allow for good cause, a 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 quarter.

SEC. 4. Section 10240 of the Business and Professions Code is amended to read:

10240. (a) Every real estate broker acting within the meaning of subdivision (d) of Section 10131 who negotiates a loan to be secured directly or collaterally by a lien on real property shall, before the borrower becomes obligated to complete the loan, cause to be delivered to the borrower a statement in writing, containing all the information required by Section 10241. It shall be personally signed by the borrower and by the real estate broker negotiating the loan or by a real estate licensee acting for the broker in negotiating the loan. When so executed, an exact copy thereof shall be delivered to the borrower at the time of its execution. The real estate broker negotiating the loan shall retain on file for a period of four years a true and correct copy of such statement as signed by the borrower.

No real estate licensee shall permit such statement to be signed by a borrower if any information required by Section 10241 is omitted. This section is not applicable with respect to a loan for a lender enumerated in subdivision (a) of Section 10133.1 on which the broker receives a commission from the borrower not in excess of 2 percent of such loan.

(b) For the purposes of applying the provisions of this article, a real estate broker is acting within the meaning of subdivision (d) of

Section 10131 if he or she solicits borrowers, or causes borrowers to be solicited, through express or implied representations that the broker will act as an agent in arranging a loan, but in fact makes the loan to the borrower from funds belonging to the broker.

SEC. 5. 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, such 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 brokerage or commissions contracted for or to be received by the real estate broker for services performed as an agent in negotiating, procuring or arranging the loan or the total of loan origination fees, points, bonuses and other charges in lieu of interest to be received by the broker if he or she elects to act as a lender rather than agent in the transaction.

(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 such 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 broker negotiating the loan, his or her license number, and the address of his or her licensed place of business.

(j) If the broker anticipates that the loan to the borrower may be made wholly or in part from broker-controlled funds, a statement to that effect.

For purposes of this section, broker-controlled funds means funds owned by the broker, by a spouse, child, parent, grandparent, brother, sister, father-in-law, mother-in-law, brother-in-law or sister-in-law of the broker, or by any entity in which the broker alone or together with any of the above relatives of the broker has an ownership interest of greater than 25 percent.

(k) The terms of prepayment privileges, and penalties, if any.

(*l*) A statement that the purchase of credit 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. 6. Section 10241.2 is added to the Business and Professions Code, to read:

10241.2. If the broker elects to make a loan subject to Section 10240 which consists wholly or in part of broker-controlled funds as defined in subdivision (j) of Section 10241, the broker shall advise the borrower of that fact not later than the next business day after making the election, but in any event before the close of escrow of the loan transaction.

SEC. 7. Section 10248.3 of the Business and Professions Code is amended to read:

10248.3. The provisions of this article shall apply only to those loans otherwise subject to this article which are made or negotiated by real estate brokers acting within the meaning of subdivision (d) of Section 10131 or subdivision (b) of Section 10240.

CHAPTER 887

An act to add Sections 2188.8 and 2188.9 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 2188.8 is added to the Revenue and Taxation Code, to read:

2188.8 (a) Whenever the assessor receives a written request for separate assessment of timeshare estates in a timeshare project, as defined in Section 11003.5 of the Business and Professions Code and as specified in subdivision (h) of this section, the assessor shall, on the

first lien date which occurs more than 60 days following the request, and on each lien date thereafter, separately assess each timeshare estate in the project if the assessor determines that the conditions specified in subdivision (c) have been met. Whenever estates in a timeshare project are separately assessed, they shall continue to be separately assessed in subsequent fiscal years and once a request for separate assessment is made with respect to a project, it is binding on all future timeshare estate owners.

(b) The interest that is to be separately assessed is the value of the right of recurrent, exclusive use or occupancy of real property, annually or on some other periodic basis, for a specific period of time that has been, or will be, allotted from the use or occupancy periods into which the project has been divided.

(c) The separate assessment of a timeshare estate may not be made by the assessor unless:

(1) The person making the request certifies that the request for separate assessment has been approved in the manner provided in the organizational documents of the organization involved for approval of matters affecting the affairs of the organization generally; and

(2) A diagrammatic floor plan of the improvements, a copy of the documents setting forth the procedures for scheduling time and units to each timeshare estate owner, and a list of every timeshare estate owner, with a date notation thereon showing when, according to the organization's records, each timeshare estate was acquired, have been filed with the assessor. A plot map of the land showing the location of the improvements on the land need not be filed unless requested by the assessor. The organization shall file an annual statement for each succeeding assessment year, on or before April 1, with the assessor setting forth any changes to such required information known to the organization. The list or other information provided pursuant to this section is not a public document and shall not be open to public inspection, except as provided in Section 408.

(d) Notwithstanding the provisions of subdivision (c), this section shall not be construed to require any person making a request for separate assessment to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment.

(e) The tax on a timeshare estate that is separately assessed pursuant to this section shall be a lien solely on the timeshare estate and shall be entered on and be subject to all provisions of law applicable to taxes on the secured roll.

(f) The assessor shall provide to the principal office of each timeshare project within the taxing jurisdiction, at such time and in such manner as he deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to the implementation thereof.

(g) The county may charge a fee for the initial and the on-going costs, not to exceed the actual cost, of the separate assessment and

billing with respect to a timeshare project. This fee shall be proportionately allocated to each of the timeshare estate owners, collected commencing with the initial separate tax bills, and deposited in the county's general fund.

(h) For purposes of this section, "timeshare estate" applies to timeshare estates, as defined in Section 11003.5 of the Business and Professions Code, which include a fee simple interest in the underlying property involved. However, "timeshare estate" does not include timeshare estates that are coupled with a leasehold interest or an estate for years.

SEC. 2. Section 2188.9 is added to the Revenue and Taxation Code, to read:

2188.9. (a) Whenever the assessor receives a written request for separate assessment of a timeshare project, as defined in Section 11003.5 of the Business and Professions Code, the assessor shall, on the first lien date which occurs more than 60 days following the request, and on each lien date thereafter, separately assess the individual interests in the project described in subdivision (b) if the conditions specified in subdivision (c) have been met. Whenever a timeshare project becomes subject to separate assessment, it shall continue to be so subject in subsequent fiscal years and once a request for separate assessment is made, it is binding on all future owners and occupants of the project.

(b) The interest in a timeshare project that is to be separately assessed is the value of the right of recurrent, exclusive use or occupancy of real property, annually or on some other periodic basis, for a period of time that has been, or will be, allotted from the use or occupancy periods into which the project has been divided.

(c) A separate assessment may not be made by the assessor under this section unless:

(1) The person making the request certifies that the request for separate assessment has been approved in the manner provided in the organizational documents of the organization involved for approval of matters affecting the affairs of the organization generally; and

(2) A diagrammatic floor plan of the improvements, a copy of the documents setting forth the procedures for scheduling time and units to each timeshare interest owner, and a list of every timeshare interest owner, with a date notation thereon showing when, according to the organization's records, each interest was acquired, have been filed with the assessor. A plot map of the land showing the location of the improvements on the land need not be filed unless requested by the assessor. The organization shall file an annual statement for each succeeding assessment year, on or before April 1, with the assessor, setting forth any changes to the required information known to the organization. The list or other information provided pursuant to this section is not a public document and shall not be open to public inspection, except as provided in Section 408 of the Revenue and Taxation Code.

(d) Notwithstanding the provisions of subdivision (c), this section shall not be construed to require applicants for separate assessments to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment except for the assessor's approval.

(e) The assessor shall cumulate all the separate assessments in a timeshare project and enter the total assessment on the secured roll in the name of the organization or timeshare owners' association. The assessor shall notify each owner of a timeshare interest subject to separate assessment under this section of the amount of an increased assessment pursuant to Section 619.

(f) The tax on the total assessment with respect to a timeshare project shall be a lien on the entire timeshare project and shall be subject to all provisions of law applicable to taxes on the secured roll.

(g) The tax collector shall send a single tax bill, with an itemized breakdown detailing the taxes applicable to each separate assessment, to the timeshare project organization or owners' association.

(h) The assessor shall provide to the principal office of each timeshare project within the taxing jurisdiction, at that time and in that manner as he or she deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to the implementation thereof.

(i) The county may charge a fee for the initial cost of separately assessing and implementing subdivision (g), not to exceed the actual cost, which may be collected on the tax bill to the timeshare project, which fee shall be deposited in the county's general fund.

(j) This section shall not apply to timeshare estates or to timeshare projects that are subject to the provisions of Section 2188.8.

SEC. 3. 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 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. 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 permit an owners' organization sufficient time prior to the March 1, 1983 lien date to coordinate a membership vote and submit a written request for assessment of a timeshare project as provided in this act, it is necessary that this act go into immediate effect.

CHAPTER 888

An act to amend Section 2 of Chapter 695 of the Statutes of 1981, relating to domestic water supply systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Union Public Utility 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 River Pines Public Utility 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. 3. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Plymouth 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. 4. 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 Lockford Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 5. A grant not to exceed the amount of three hundred sixty-eight thousand dollars ($368,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Sunset Heights Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 6. Section 2 of Chapter 695 of the Statutes of 1981 is amended to read:

Sec. 2. A grant not to exceed the amount of two hundred forty-six thousand dollars ($246,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Oakdale Irrigation 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. 7. The Legislature hereby finds and declares that in order to meet the minimum safe drinking water standards there are critical needs within the Union Public Utility District, the River Pines Public Utility District, the City of Plymouth, the Lockford Community Services District, and the Sunset Heights Community Services District to immediately undertake certain improvements necessary to enable the residents of those communities to have a dependable and potable water supply.

SEC. 8. The Legislature further finds and declares that the water systems of the Union Public Utility District, the River Pines Public Utility District, the City of Plymouth, the Lockford Community Services District, and the Sunset Heights Community Services District have critical deficiencies which pose a serious threat to the public health and welfare of all consumers within those communities and that each entity is only barely meeting the demand for water within the community.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize grants from the California Safe Drinking Water Fund to the Union Public Utility District, the River Pines Public Utility District, the City of Plymouth, the Lockford Community Services District, and the Sunset Heights Community

Services District, and to increase the grant to the Oakdale Irrigation District, to resolve the critical water supply problems of those communities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 889

An act to amend Sections 29145.1, 29154, 29241, 29242, 29303, and 29326 of, to amend, repeal, and add Section 29301 of, to add Section 29161.5 to, and to add and repeal Section 29304 of, the Food and Agricultural Code, relating to bees, and making an appropriation therefor.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 29145.1 of the Food and Agricultural Code is amended to read:

29145.1. The director shall adopt the regulations which the director, in the sound exercise of discretion, deems necessary and proper to minimize the hazard to bees, while still providing for the reasonable and necessary application of pesticides toxic to bees to blossoming plants.

(a) Regulations adopted pursuant to this section may be applicable to either the entire state or specified areas of the state. Regulations that are applicable to only specified areas of the state shall include provisions for the mandatory notice of movement of apiaries, including notice of movement or any relocation thereof within the area to which the regulations are applicable.

(b) If regulations are adopted under subdivision (a), the director may also adopt regulations providing for timely notification of apiary owners of proposed pesticide applications.

(c) If regulations are adopted under subdivisions (a) and (b), the director may also adopt regulations on the limitation of pesticides used.

(d) If regulations are adopted pursuant to subdivisions (a), (b), and (c), the director may also adopt regulations providing limitations on the time and method of application of pesticides.

(e) If regulations are adopted pursuant to subdivisions (a), (b), (c), and (d), the director may adopt other regulations that he or she deems necessary.

(f) Regulations adopted pursuant to this section may be made applicable to the entire state or only portions thereof, or to the use of pesticides toxic to bees on only specific blossoming plants.

(g) The regulations adopted pursuant to subdivisions (c) and (d) shall include conditions wherein the regulations are not applicable

if the bees are not removed after the notification pursuant to subdivision (b). Failure of a beekeeper to remove hives from a specific location, except during specific periods of time, as provided in subdivisions (c) and (d), shall not prevent the application of pesticides.

SEC. 2. Section 29154 of the Food and Agricultural Code, as amended by Section 3 of Chapter 487 of the Statutes of 1981, is amended to read:

29154. The inspector, if a disease is brought to his or her attention in writing, shall, or if he or she deems it necessary, may enter any premises and make an inspection of any apiary within his or her jurisdiction. He or she shall report his or her inspection and findings to the beekeeper in person or by mail within five days. If any disease is found in the apiary, the inspector making the inspection shall plainly mark the hives or combs which contain evidence of disease. The inspector may place a band with a seal around a diseased hive. If the inspector finds American foulbrood disease has infected more than two hives of 99 colonies or less, or 2 percent or more of colonies of 100 or more, he or she shall make a complete inspection of all the hives in the apiary and the owner of the hives in the apiary shall pay the cost of the complete inspection. If the inspector finds American foulbrood disease has infected less than 2 percent of colonies of 100 or more as the result of an inspection made after the disease was brought to the inspector's attention in writing, the commissioner may assess the costs of the inspection on the person who brought the disease to the inspector's attention.

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. 3. Section 29161.5 is added to the Food and Agricultural Code, to read:

29161.5. In those instances when the inspector has sealed the diseased hive after making a field determination, if a beekeeper appeals the inspector's field determination, the owner or bailee of the apiary and the inspector shall jointly break the seal and take the sample for appeal. If the band is broken in the absence of the inspector, no appeal shall be valid and the disease shall be abated as described in the abatement notice.

SEC. 4. Section 29241 of the Food and Agricultural Code is amended to read:

29241. Every person that is the owner or in possession of an apiary which is located within the state, on the first day of January of each year, or within 30 days thereafter, shall register the number of colonies in each apiary which is owned by him or her, and the location of the apiary.

SEC. 5. Section 29242 of the Food and Agricultural Code is amended to read:

29242. Every person that moves bees into the state or that otherwise comes into possession of an apiary which is located within

the state after the first day of January shall register the number of colonies moved into the state or so acquired within 30 days after coming into possession of the apiary.

SEC. 6. Section 29301 of the Food and Agricultural Code is amended to read:

29301. (a) The beekeeper, apiary owner, apiary operator, or the person in possession of any apiary shall pay to the director an annual assessment fee not to exceed thirty-five cents ($0.35) per colony as determined by the director, after consultation with the Apiary Board, to be necessary to carry out the provisions of this article. However, the fee shall only be paid once each year by any one of these persons. For bees imported into the state, the fees shall be collected at the time the bees are received in the state.

(b) Beekeepers, apiary owners, apiary operators, or persons in possession of any apiary shall be exempt from the assessments required under this section if they own and operate less than 40 colonies.

(c) The department shall match any funds raised by the assessments imposed under this section and transfer these matching funds to the State Treasury for credit to the Department of Food and Agriculture Fund for the purposes stated in Section 29303.

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 before January 1, 1986, deletes or extends that date.

SEC. 7. Section 29301 is added to the Food and Agricultural Code, to read:

29301. Each beekeeper, apiary owner, apiary operator, or the person in possession of any apiary shall pay to the director an annual assessment fee as determined by the director to be necessary to carry out the provisions of this article. However, the fee shall only be paid once each year by any one of those persons, and it shall not exceed the following schedule:

(a) For nine or less colonies there shall be no fee.

(b) For 10 to 49, inclusive, colonies the fee shall be seven dollars and fifty cents ($7.50).

(c) For 50 to 299, inclusive, colonies the fee shall be fifteen dollars ($15).

(d) For 300 to 999, inclusive, colonies the fee shall be thirty dollars ($30).

(e) For 1,000 to 2,499, inclusive, colonies the fee shall be sixty dollars ($60).

(f) For 2,500 to 4,999, inclusive, colonies the fee shall be ninety dollars ($90).

(g) For 5,000 to 7,499, inclusive, colonies the fee shall be one hundred twenty dollars ($120).

(h) For 7,500 or more colonies the fee shall be one hundred fifty dollars ($150).

This section shall become operative January 1, 1986.

SEC. 8. Section 29303 of the Food and Agricultural Code is

amended to read:

29303. Any funds collected by the director pursuant to this article shall be deposited into the State Treasury and credited to the Department of Food and Agriculture Fund to be used for bee disease control, for research related to the bee industry that is recommended by the California Apiary Board and approved by the director, and to carry out the provisions of Article 12 (commencing with Section 29321) of this chapter. The director shall pay, pursuant to a contract entered into pursuant to this section, five-eighths of the funds received from apiary assessments to the counties as reimbursement for costs incurred by the commissioner in the administration and enforcement of this chapter. The payment shall be apportioned to the commissioner in relation to each county's expenditure for the administration and enforcement of this chapter. The director, after consulting with the Apiary Board as provided in Section 29326, shall establish standards of performance for administration and enforcement. The director shall make the payments to each county only if the commissioner acts in compliance with a contract entered into between the director and the commissioner.

SEC. 9. Section 29304 is added to the Food and Agricultural Code, to read:

29304. Each beekeeper, apiary owner, apiary operator, or person in possession of any apiary, shall pay, in addition to any other fees imposed under this chapter, an annual registration fee to the commissioner of ten dollars ($10) to cover the cost of apiary registration.

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 before January 1, 1986, deletes or extends that date.

SEC. 10. Section 29326 of the Food and Agricultural Code is amended to read:

29326. The board shall be advisory to the director on all matters relating to the beekeeping industry and may make recommendations on all matters affecting the activities of the department in relation to the beekeeping industry including an annual review of the department's apiary program.

SEC. 11. The Department of Food and Agriculture shall fund any costs incurred under Section 6 of this act from existing appropriations budgeted to the department in the 1982–83 Budget Act. In the event that it becomes necessary for the department to augment its budget pursuant to Section 28 of the 1982–83 Budget Act in order to comply with Section 6 of this act, the department shall notify the Joint Legislative Budget Committee, the Chairman of the Assembly Committee on Ways and Means, and the Chairman of the Senate Committee on Finance regarding the sources of the augmentation.

CHAPTER 890

An act to amend and repeal Sections 8383 and 8383.5 of, to amend, add, and repeal Sections 8382, 8384, 8386, 8387, and 8693 of, to add and repeal Section 8671 of, and to repeal Section 8383.7 of, the Fish and Game Code, relating to fishing.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 8382 of the Fish and Game Code, as amended by Section 1 of Chapter 728 of the Statutes of 1979, is amended to read:

8382. Barracuda and yellowtail not less than 28 inches in length may be taken with hook and line at any time.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 1.5. Section 8382 is added to the Fish and Game Code, to read:

8382. White seabass, barracuda, and yellowtail not less than 28 inches in length may be taken with hook and line at any time.

This section shall become operative on January 1, 1988.

SEC. 2. Section 8382 of the Fish and Game Code, as added by Section 2 of Chapter 728 of the Statutes of 1979, is repealed.

SEC. 3. Section 8383 of the Fish and Game Code is amended to read:

8383. White seabass may not be taken for commercial purposes between March 15th and June 15th, inclusive, between the United States-Mexico International Boundary and a line extending due west (true) from Point Conception, except that not more than two fish per boat may be possessed and sold if taken incidentally in commercial fishing operations with gill nets or trammel nets. Any fish so taken shall not be transferred to any other vessel.

The restrictions specified in this section shall not apply to white seabass taken in waters lying south of the International Boundary Line between the United States and Mexico extended westerly into the Pacific Ocean. A current fishing permit issued by the Mexican Government may constitute valid evidence that white seabass were taken south of the international boundary.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 4. Section 8383.5 of the Fish and Game Code is amended to read:

8383.5. It is unlawful to take, possess, sell, or purchase any white seabass less than 28 inches in length, measured from the tip of the

lower jaw to the end of the longer lobe of the tail.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 5. Section 8383.7 of the Fish and Game Code is repealed.

SEC. 6. Section 8384 of the Fish and Game Code, as amended by Section 5 of Chapter 728 of the Statutes of 1979, is amended to read:

8384. No barracuda or yellowtail less than 28 inches in length may be sold or purchased, except that not more than five barracuda and five yellowtail per day may be possessed by the holder of a commercial fishing license for noncommercial use if taken incidentally in commercial fishing.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 6.5. Section 8384 is added to the Fish and Game Code, to read:

8384. No white seabass, barracuda, or yellowtail less than 28 inches in length may be sold or purchased, except that no more than five of each fish per day may be possessed by the holder of a commercial fishing license for noncommercial use if taken incidentally in commercial fishing.

This section shall become operative on January 1, 1988.

SEC. 7. Section 8384 of the Fish and Game Code, as added by Section 6 of Chapter 728 of the Statutes of 1979, is repealed.

SEC. 8. Section 8386 of the Fish and Game Code, as amended by Section 7 of Chapter 728 of the Statutes of 1979, is amended to read:

8386. Barracuda and yellowtail shall be measured from the tip of the lower jaw to the end of the longer lobe of the tail.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 8.5. Section 8386 is added to the Fish and Game Code, to read:

8386. White seabass, barracuda, and yellowtail shall be measured from the tip of the lower jaw to the end of the longest lobe of the tail.

This section shall become operative on January 1, 1988.

SEC. 9. Section 8386 of the Fish and Game Code, as added by Section 8 of Chapter 728 of the Statutes of 1979, is repealed.

SEC. 10. Section 8387 of the Fish and Game Code, as amended by Section 9 of Chapter 728 of the Statutes of 1979, is amended to read:

8387. It is unlawful from May 1st to August 31st, inclusive, for any one person to have in his possession on any boat, barge, or other vessel, more than 500 pounds of yellowtail. From May 1st to August 31st, inclusive, not more than 2,500 pounds of yellowtail may be possessed on any boat, barge, or other vessel at any one time.

This section does not apply to yellowtail taken in waters lying south of the international boundary line between the United States and Mexico extended westerly into the Pacific Ocean.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 10.5. Section 8387 is added to the Fish and Game Code, to read:

8387. It is unlawful from May 1st to August 31st, inclusive, for any one person to have in his possession on any boat, barge, or other vessel, more than 500 pounds of yellowtail, or 1,000 pounds of white seabass.

From May 1st to August 31st, inclusive, not more than 2,500 pounds of yellowtail nor more than 5,000 pounds of white seabass may be possessed on any boat, barge, or other vessel at any one time.

This section does not apply to yellowtail or white seabass taken in waters lying south of the international boundary line between the United States and Mexico extended westerly into the Pacific Ocean.

This section shall become operative on January 1, 1988.

SEC. 11. Section 8387 of the Fish and Game Code, as added by Section 10 of Chapter 728 of the Statutes of 1979, is repealed.

SEC. 11.5. Section 8671 is added to the Fish and Game Code, to read:

8671. Notwithstanding Sections 8693 and 8724, gill nets and trammel nets with less than a 6-inch mesh shall not be used in those portions of District 19, as follows:

(a) In waters less than 10 fathoms in depth, between a line running 225° magnetic from Dana Point and a line running 225° magnetic from the light buoy on the mainland shore approximately seven miles southeast of the monument at San Mateo Point.

(b) In waters less than 13 fathoms in depth between a line running 225° magnetic from the southernmost stack of the power plant approximately 1.5 miles southeast of Carlsbad and a line running 225° magnetic from the stack approximately one mile north of Del Mar.

(c) In waters less than 20 fathoms in depth between a line running due west magnetic from Scripps Pier and a line running due west magnetic from the North Jetty at the entrance to Mission Bay.

(d) This section shall remain in effect only until January 1, 1988, and as of such date, is repealed unless a later enacted statute which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 12. Section 8693 of the Fish and Game Code, as added by Section 14 of Chapter 886 of the Statutes of 1980, is amended to read:

8693. In Districts 17, 18, 19, and 20A drift gill nets and set gill nets may be used except for the taking of salmon.

Rockfish and lingcod may be taken with drift gill nets and set gill nets in such districts subject to the following restrictions:

(a) Rockfish and lingcod shall not be taken between a line running 240° magnetic from the south steamplant stack at Moss Landing and a line running 320° magnetic from the lighthouse at Point Pinos in water less than 60 fathoms.

(b) Rockfish and lingcod shall not be taken between a line running 320° magnetic from the lighthouse at Point Pinos and a line

running 250° magnetic from Hurricane Point in waters less than 50 fathoms.

(c) Rockfish and lingcod shall not be taken between a line running 250° magnetic from Hurricane Point and a line running 180° magnetic from Pfeiffer Point in water less than 45 fathoms.

(d) Rockfish and lingcod shall not be taken between a line running due west magnetic from the lighthouse at Point Piedras Blancas and a line running due west magnetic from Point Sal in water less than 40 fathoms.

(e) Rockfish and lingcod shall not be taken between a line running 250° magnetic from the Pigeon Point Lighthouse and a line running 240° magnetic from the south steamplant stack at Moss Landing, inside 40 fathoms, by means of drift gill nets and set gill nets which have mesh smaller than 5½ inches.

(f) Drift gill nets and set gill nets shall not be used nor shall they be possessed on any boat fishing for rockfish and lingcod with mesh smaller than 4⅛ inches when used in Districts 17 and 18, north of Point Buchon, or with mesh smaller than 4⅛ inches when used in Districts 18, south of Point Buchon, and 19. Drift gill nets and set gill nets used or possessed on any boat fishing for rockfish and lingcod in such districts. shall not be constructed of twine larger than number 6 nylon, except that the bottom 15 meshes may be constructed of heavier twine.

(g) In Districts 18, south of Point Sal, and 19, drift gill nets and set gill nets shall not be used to take rockfish and lingcod with the mesh of the net in waters less than 50 fathoms in depth when within the first 100 fathom curve along the mainland shore, and elsewhere in waters less than 70 fathoms in depth. The department shall conduct a study regarding the impact of depth restrictions imposed by this subdivision on the taking of rockfish and lingcod, and shall report to the Legislature concerning the study on or before January 1, 1983.

(h) Loads or lots of fish taken in the areas described under subdivisions (a) to (g), inclusive, may contain 200 pounds or less of rockfish and lingcod in combination, but in no instance more than 100 pounds of rockfish.

(i) Gill nets shall not be used to take rockfish in District 20A.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 12.5. Section 8693 is added to the Fish and Game Code, to read:

8693. In Districts 17, 18, 19, and 20A, drift gill nets and set gill nets may be used except for the taking of salmon.

Rockfish and lingcod may be taken with drift gill nets and set gill nets in such districts subject to the following restrictions:

(a) Rockfish and lingcod may not be taken between a line running 240° magnetic from the south steamplant stack at Moss Landing and a line running 320° magnetic from the lighthouse at Point Pinos in water less than 60 fathoms.

(b) Rockfish and lingcod may not be taken between a line running 320° magnetic from the lighthouse at Point Pinos and a line running 250° magnetic from Hurricane Point in waters less than 50 fathoms.

(c) Rockfish and lingcod may not be taken between a line running 250° magnetic from Hurricane Point and a line running 180° magnetic from Pfeiffer Point in water less than 45 fathoms.

(d) Rockfish and lingcod may not be taken between a line running due west magnetic from the lighthouse at Point Piedras Blancas and a line running due west magnetic from Point Sal in water less than 40 fathoms.

(e) Rockfish and lingcod may not be taken between a line running 250° magnetic from the Pigeon Point Lighthouse and a line running 240° magnetic from the south steamplant stack at Moss Landing, inside 40 fathoms, by means of drift gill nets and set gill nets which have mesh smaller than 5½ inches.

(f) Loads or lots of fish taken in the areas described under subdivisions (a) to (e), inclusive, may contain 200 pounds or less of rockfish and lingcod in combination, but in no instance more than 100 pounds of rockfish.

(g) On and after July 1, 1978, drift gill nets and set gill nets which have mesh smaller than 4⅛ inches may not be used nor may they be possessed on any boat fishing for rockfish and lingcod in Districts 17, 18, 19, and 20A. On and after such date, drift gill nets and set gill nets used or possessed on any boat fishing for rockfish and lingcod in such districts, shall not be constructed of twine larger than number 6 nylon, except that the bottom 15 meshes may be constructed of heavier twine.

(h) This section shall become operative on January 1, 1988.

SEC. 13. Section 8693 of the Fish and Game Code, as amended by Section 13 of Chapter 886 of the Statutes of 1980, is repealed.

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 891

An act to add Chapter 10 (commencing with Section 72001) to Division 22 of the Food and Agricultural Code, relating to wheat, and making an appropriation therefor.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Chapter 10 (commencing with Section 72001) is added to Division 22 of the Food and Agricultural Code, to read:

CHAPTER 10. CALIFORNIA WHEAT COMMISSION

Article 1. Declaration and General Provisions

72001. The wheat industry in this state is expanding rapidly. It provides over three hundred fifty million dollars ($350,000,000) in farm income annually, increased by almost 20 percent in 1981, and is expected to show continued growth in the future. It is one of California's five biggest agricultural exports. In total production, the state is among the top 10 states nationwide. The industry is a major employer of agricultural labor and is also a source of employment in the transportation, warehousing, and shipping industries.

72002. Opportunity exists for continued expansion, particularly if the industry can develop better varieties more suited to the California climate and the needs of the marketplace. The unique qualities of California wheat need to be promoted to foreign buyers, who purchase most of the wheat grown in this state. Opportunity also exists for increasing sales to domestic customers.

72003. The establishment of a California Wheat Commission is necessary for the efficient development and management of an international sales promotion program, and is essential to ensure that the California wheat industry can compete successfully in the marketplace.

72004. A commission is also necessary to conduct research into the development of varieties more suitable to the export trade, as well as more productive under California growing conditions.

72005. A California Wheat Commission would also be the means for California producers to take a more active role in national wheat organizations and wheat policymaking bodies. Producers in this state lack effective input at the national level, while producers in all other major wheat-growing states have this advantage through their own state commissions.

72006. The production and marketing of wheat produced in this state is hereby declared to be affected with public interest. The provisions of this chapter are enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

72007. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, marketing research, and production research.

72008. No action taken by the commission, nor by any individual

in accordance with this chapter or with rules or regulations adopted under the chapter, shall be deemed a violation of the Cartwright Act, the Unfair Practices Act, the Fair Trade Act, or any rule of statutory or common law against monopolies or combinations in restraint of trade.

Article 2. Definitions

72021. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

72022. "Wheat" means any variety of wheat produced in this state.

72023. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to the provisions of this chapter.

72024. "Commission" means the California Wheat Commission.

72025. "Commissioner" means any member of the commission.

72026. "Director" means the Director of Food and Agriculture.

72027. "Districts" shall consist of the following:

(a) District 1 consists of Siskiyou, Tehama, Lassen, Modoc and Shasta Counties.

(b) District 2 consists of Butte and Glenn Counties.

(c) District 3 consists of Colusa and Lake Counties.

(d) District 4 consists of Napa, Sonoma, and Yolo Counties.

(e) District 5 consists of Amador, El Dorado, Placer, Yuba, Nevada, Sutter, and Sierra Counties and that portion of Sacramento County lying north of Road J-11 and east of the Sacramento River from Walnut Grove to Courtland.

(f) District 6 consists of Solano County and that portion of Sacramento County not included in District 5.

(g) District 7 consists of Alameda, Contra Costa, Stanislaus, and San Joaquin Counties.

(h) District 8 consists of Merced and Madera Counties.

(i) District 9 consists of Fresno County.

(j) District 10 consists of Kings and Tulare Counties.

(k) District 11 consists of Kern County.

(*l*) District 12 consists of Santa Barbara, San Luis Obispo, Monterey, and San Benito Counties.

(m) District 13 consists of San Bernardino, Riverside, San Diego, Los Angeles and Ventura Counties.

(n) District 14 consists of that part of Imperial County lying north of Keystone Road.

(o) District 15 consists of that part of Imperial County lying south of Keystone Road.

The boundaries of any district may be changed by a two-thirds vote of the commission, which is concurred in by the director, to ensure proper representation by producers. These boundaries need not coincide with county lines.

72028. "Ex officio member" shall be a nonvoting member of the commission.

72029. "Handle" means to engage in the business of a handler as defined in Section 72030.

72030. "Handler" means any person who engages in the operation of selling, marketing, or distributing wheat which he or she has produced, 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.

72031. "Marketing research" means any research relating to the sale of wheat.

72032. "Marketing season" or "fiscal year" means the period beginning June 1 of any year and extending through May 31 of the following year.

72033. "Producer" or "grower" means any person who is engaged, within this state, in the business of producing wheat for market, and who shall, upon request, provide proof of commodity sale during the preceding marketing season.

72034. "Production research" means any research related to the production and processing of wheat, other than marketing research.

Article 3. The California Wheat Commission

72051. There is in the state government the California Wheat Commission. The commission shall be composed of 15 members who are wheat producers and who are not handlers, two members who are handlers, and one public member. The producers, one from each district, shall be elected by and from producers within the respective districts. The two handler members shall be elected by and from handlers doing business within the state.

The public member shall be appointed to the commission by the director from the nominees recommended by the commission.

The director and other appropriate individuals as determined by the commission shall be nonvoting ex officio members of the commission.

72052. The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or is in violation of this chapter.

If the commission refuses or fails to cease those activities or functions or to make such corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities of the commission until that time that the cessation or correction of activities or functions as required by the director has been accomplished by the commission.

Actions of the commission in violation of that written notice shall be without legal force or effect.

The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship

affecting the existing or proposed activities or functions which are the subject of the written notice.

Upon service of the written notice, the director shall notify the commission, in writing, of the specific acts which he determines are not in the public interest or are in violation of this chapter and his reasons for requiring a cessation or correction of specific activities or functions, and may make recommendations that will make the activities or functions acceptable to the director.

72052.5. When the director is required to determine whether or not to concur with a decision of the commission, he shall indicate his response to the commission within 15 working days after notification of the decision. The response may be a request that additional information be provided.

72053. The commission or the director may bring an action for judicial relief from the director's written notice, or from noncompliance by the commission with the written notice, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

72054. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his duties and responsibilities under this chapter. However, the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to that action.

72055. Each member of the commission, except the ex officio members, shall have an alternate member, to be elected in the same manner as the member. An alternate member shall, in the absence of the member for whom he is alternate, serve in place of the member on the commission, and may exercise, all the rights, privileges, and powers of the member when serving on the commission. In the event of death, removal, resignation, or the disqualification of a member, the alternate shall act as a member on the commission until a successor is qualified and elected.

72056. Any vacancy on the commission occurring by the failure of any person elected to the commission as a member or alternate member to continue in his position due to a change in status making him ineligible to serve, or due to death, removal, disqualification, or resignation, shall be filled, for the unexpired portion of the term, by a majority vote of the commission. However, the person shall fulfill all the qualifications set forth in this article as required for the member whose office he is to fill. Qualifications of any person to fill a vacancy on the commission shall be certified, in writing, to the director. The director shall notify the commission if he or she determines that any such person is not qualified.

72057. A producer member and his or her alternate on the commission shall be an individual, partner, or employee of a producer who has a financial interest in producing, or causing to be produced, wheat for market. Not more than two such members shall

be persons employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, association, or business organization and not more than one member in any one district shall be so employed or connected. Qualification as a producer member shall continue during the entire term of office.

A handler member and his or her alternate on the commission shall be an individual, or a partner or employee of a handler, who has a financial interest in handling wheat for market.

The public member or his alternate on the commission, shall have all the powers, rights, and privileges of any other member on the commission. The public member shall not have any financial interest in the wheat industry.

72058. The term of office of all commissioners, except any ex officio member, shall be for three years from the date of their election and until their successors are qualified and elected. However, of the first producer members of the commission, five shall serve for one year, five shall serve for two years, and five shall serve for three years, with the determination of term of each member to be made by lot at the time of election. Terms of office of each commissioner shall be limited to four consecutive terms.

72059. The commission shall be and is hereby declared and created a corporate body. It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It may adopt a corporate seal. Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state, and shall be prima facie evidence of the truth of all statements therein.

72060. A quorum of the commission shall be any 10 voting commissioners. Except as provided in Sections 72027 and 72133, the vote of a majority of members present at a meeting at which there is a quorum shall constitute the act of the commission.

72061. The director or his representatives shall be notified and may attend each meeting of the commission and any committee meeting of the commission.

72062. No commissioner or member of a committee established by the commission who is a nonmember of the commission shall receive a salary. Each commissioner, except the ex officio member, and each member of a committee established by the commission who is a nonmember of the commission may receive a sum of not to exceed one hundred dollars ($100) per day, as established by the commission, for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission, together with the necessary traveling expenses and meal allowances, as approved by the commission.

72063. All moneys received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission, shall be deposited in such banks as the commission may designate and shall be disbursed by order of the commission

through such agent or agents as it may designate for that purpose. Any agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business as such in the State of California, in favor of the commission, in the amount of not less than twenty-five thousand dollars ($25,000).

72064. The commission shall defend any of its members against any claims made or actions taken against any commission members on matters in which the members acted on behalf of the commission.

72065. The state shall not be liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission shall be limited to the funds collected by the commission. No member of the commission or alternate member, or any employee or agent thereof, shall be personally liable on the contracts of the commission nor shall a commissioner, alternate member, or employee of the commission be responsible individually in any way to any producer, handler, or any other person for error in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee, except for his own individual acts of dishonesty or crime. No commissioner or alternate member shall be held responsible individually for any act or omission of any member of the commission. The liability of the commissioners shall be several and not joint, and no commissioner shall be liable for the default of any other commissioner.

Article 4. Powers and Duties of the Commission

72081. The powers and duties of the commission shall include, but are not limited to, all of the following:

(a) To adopt, and from time to time, alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders for carrying out the provisions of this chapter, including rules for regulation of appeals from any bylaw, rule, regulation, or order of the commission.

(b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to, or in connection with or deemed reasonably necessary for, proper or advisable effectuation of the purposes of this chapter.

(c) To appoint its own officers, including a chairman, one or more vice-chairmen, and such other officers as it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

(d) To employ a manager to serve, at the pleasure of the commission, as president and chief executive officer of the commission and other personnel, including legal counsel, that is necessary to carry out the provisions of this chapter. The commission may retain a management firm or any staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under the control of the commission. If the manager engages in any conduct which the director

determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. In the event that the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the manager.

(e) To fix the compensation for all employees of the commission.

(f) To appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out the provisions of this chapter.

(g) To establish offices and incur expenses, and to enter into any and all contracts and agreements, and to create such liabilities and borrow such funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(h) To keep accurate books, records and accounts of all of its dealings, which books, records and accounts shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all producers and handlers of wheat, copies of which shall also be submitted to the Legislature and the Department of Food and Agriculture. In addition, the director may, as he determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission.

(i) To promote the sale of wheat by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for wheat and to educate and instruct the public with respect to the uses of the several varieties and the healthful properties and nutritional value of wheat.

(j) To appoint an advisory committee composed of handlers to aid the commission in its deliberations.

(k) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and such other contracts or agreements as the commission may deem necessary for the promotion of the sale of wheat.

(*l*) To conduct and contract with others to conduct scientific research, including the study, analysis, dissemination, and accumulation of information obtained from this research or elsewhere respecting cultural and production practices, marketing, and distribution of wheat. In connection with research, the commission shall have the power to accept contributions of, or to match, private, state, or federal funds that may be available for those purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting the research.

(m) To publish and distribute, without charge, a bulletin or other

communication for dissemination of information relating to the wheat industry to producers and handlers.

(n) To establish an assessment rate to defray operating costs of the commission.

(o) To establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to subdivision (e) of Section 72081.

(p) To educate and instruct wheat customers and buyers with respect to proper methods of handling and selling wheat, to make market surveys and analyses, to present facts to, and negotiate with, state, federal and foreign agencies on matters which affect the marketing of wheat, and to maintain and expand present markets and create new markets for wheat.

Article 5. Implementation and Voting Procedures

72091. Within 90 days after January 1, 1983, the director shall establish a list of producers eligible to vote on implementation of this chapter. In establishing the list, the director shall require that handlers, county agricultural commissioners, and wheat producers in this state submit the names, mailing addresses, and district numbers of all wheat producers. The request for this information shall be in writing. The list shall be filed within 30 days following receipt of the written notice.

Any producer of wheat, whose name does not appear upon the director's list of producers affected, may have his name established on the list by filing with the director a signed statement, identifying himself as a producer. Failure to be on the list does not exempt the producer from paying assessments under this chapter.

72092. The provisions of this chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the director finds, in a referendum conducted by the director, that at least 40 percent of the total number of producers from the list established by the director pursuant to Section 72091, participate, and either of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum, and the producers so voting marketed a majority or more of the total quantity of wheat in the preceding season by all of the producers who voted in the referendum, voted in favor of the provisions of this chapter.

(b) A majority or more of the producers who voted in the referendum, and the producers so voting marketed 65 percent or more of the total quantity of wheat in the preceding season by all of the producers who voted in the referendum, voted in favor of the provisions of this chapter.

72093. The director shall establish a period in which to conduct the referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe any additional procedure that

may be necessary to conduct the referendum. If the initial period established is less than 60 days, the director may extend the period.

72094. Failure to receive a ballot shall not invalidate the referendum.

72095. If the director finds that a favorable vote has been given as provided in Section 72092, he shall certify and give notice of the favorable vote to all producers and handlers whose names and addresses may be on file with the director.

72096. If the director finds that a favorable vote has not been given as provided in Section 72092, he shall so certify and declare all provisions of this chapter inoperative.

72097. Upon certification of the commission, the director shall contact all producers in each district by mail, or call meetings of producers in each district, for the purpose of nominating and electing persons for appointment to the commission by the director. All producers on the director's list shall be given written notice of the election meetings at least 15 days prior to the meeting date.

Upon certification of the commission, the director shall establish a list of handlers and shall, by mail or calling a meeting of all handlers, conduct the nomination and election of handlers for appointment to the commission by the director. All handlers on the director's list shall be given written notice of any nomination or election meetings at least 15 days prior to the meeting date.

72097.5. To be eligible for election to the commission, producer nominees shall present to the director a nomination petition with the signatures of at least six eligible producers from the district from which the nominee is seeking election.

72098. Subsequent to the first election of commissioners under this chapter, persons to be elected to the commission shall be selected pursuant to the nomination and election procedures which shall be established by the rules and regulations adopted by the commission with concurrence of the director.

72099. Prior to the referendum vote conducted by the director pursuant to Section 72092, the proponents of the commission shall deposit with the director such amount as the director may deem necessary to defray the expenses of preparing the necessary lists and information and conducting the vote.

Any unused funds in carrying out the provisions of Section 72092 shall be returned to the proponents of the commission who deposited the funds with the director.

Upon establishment of the commission, the commission is authorized to reimburse the proponents of the commission for any funds deposited with the director and which were used in carrying out the provisions of Section 72092, and for any legal expenses and costs incurred in establishing the commission.

Article 6. Assessments and Records

72101. The commission shall, not later than May 31 of each year, establish the assessment for the following year beginning June 1 and ending May 31. In no event shall the combined assessment of the commission and any other state authorized wheat production research and market program exceed 1 percent of the gross dollar value of the year's sale of wheat by all producers to handlers.

The commission shall establish producer gross dollar value through rules and regulations.

72103. Every handler shall keep a complete and accurate record of all wheat received by him or her and the name of the producer whose wheat was shipped. The records shall be in simple form and contain such information as the commission shall prescribe. The records shall be preserved by the handler for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

72104. All proprietary information obtained by the commission or the director from handlers and all lists of producers in the possession of the director shall be confidential and shall not be disclosed except when required in a judicial proceeding. Information on volume shipments, crop value, and any other related information which is required for reports to governmental agencies; financial reports to the commission or aggregate sales and inventory information; and any other such information which the handlers request from the commission to receive in total, excluding individual handler information, may be disclosed by the commission.

72105. Assessments provided for in this article shall be upon the producer. The handler first handling the wheat being assessed shall deduct the assessments from amounts paid by him 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.

72106. Every handler shall be personally liable for the payment of the collected assessments, and failure of the handler to collect the assessment from any producer shall not exempt any handler from liability for payment of the assessment.

72107. Any assessment which is levied as provided for in this chapter, is a personal debt of every producer so assessed. Failure of a handler to make payment of the collected assessment to the commission shall not relieve the producer of this obligation.

72108. Any producer or handler who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of such assessment determined to be due and, in addition, 1½ percent interest per month on the unpaid balance.

72109. Any person, firm, or corporation subject to the assessment in this chapter may request a total or partial refund of a paid

assessment from the commission. No refund shall be made by the commission unless requested within 90 days from the date of collection of the assessment. However, the commission may extend that period upon a showing of good cause. The refund of assessment shall be made by the commission within 60 days of the date of the request for the refund. The commission shall establish procedures and provide forms for each request, shall maintain complete records, and shall ensure confidentiality.

Article 7. Actions and Penalties

72111. It shall be a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or by both the fine and imprisonment, for any person to do any of the following:

(a) Willfully to render or furnish a false report, statement, or record required by the commission.

(b) When engaged in the shipping of wheat or in the wholesale or retail trade of wheat, to fail or refuse to furnish to the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from whom he has received wheat and the quantity so received.

(c) Secrete, destroy, or alter records required to be kept under the provisions of this chapter.

72112. The commission shall adopt regulations for the purpose of according individuals aggrieved by its actions or determinations an informal hearing before the commission, or before a committee of the commission designated for this purpose. Appeals from decisions the commission made after the hearing may be made to the director. The determination of the director shall be subject to judicial review upon petition filed with the appropriate court.

72112.5. The commission shall be empowered to commence civil actions and to utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, respecting the provisions of this chapter and the rules and regulations adopted under this chapter. Upon a favorable verdict for the commission, it shall be entitled to receive reimbursement for any reasonable attorneys' fees and other related costs. Venue for the actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

Article 8. Continuation, Suspension, and Termination

72131. Between June 1, 1987, and May 31, 1988, the commission shall cause a referendum to be conducted among producers in the manner prescribed in Section 72092 to determine whether the operations of the provisions of this chapter shall be reapproved and

continued effective. If the director finds that a favorable vote has been given, he shall so certify and all provisions of this chapter shall remain effective. If the director finds that a favorable vote has not been given, he shall so certify and declare the operation of the provisions of this chapter and the commission suspended upon the expiration of the current marketing season ending May 31, 1988. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 72134. No bond or security shall be required for any such referendum.

72132. Following a favorable referendum conducted prior to May 31, 1988, a referendum shall be conducted by the commission every fifth year thereafter between June 1st and May 31, following procedures provided by this section, unless a referendum is conducted as the result of an industry petition pursuant to Section 72133. In that case the referendum shall be every fifth year following the industry petitioned referendum.

72133. Upon the finding of a two-thirds vote of the commission that the operation of the provisions of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter shall be suspended. However, any such suspension shall not become effective until the expiration of the current marketing season. The director shall, upon receipt of the recommendation, or may upon a petition filed with him requesting the suspension, signed by 15 percent of the producers by number who produced not less than 15 percent of the volume in the immediately preceding season, and after a public hearing, cause a referendum to be conducted among the listed producers to determine if the operation and the operations of the commission shall be suspended. The director shall establish a referendum period, which shall not be less than 10 nor more than 60 days in duration. The director is authorized to prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the director shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers from the list established by the director, participate in the referendum, the director shall continue the operation of this chapter, if he finds either one of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of continuation, and the producers so voting marketed a majority or more of the total quantity of wheat marketed in the preceding marketing season by all of the producers who voted in the referendum.

(b) That a majority or more of the producers who voted in the referendum voted in favor of continuation, and that the producers so voting marketed 65 percent or more of the total quantity of wheat marketed in the preceding season by all of the producers who voted in the referendum.

72134. After the effective date of suspension of the operation of the provisions of this chapter and of the commission, the operations

of the commission shall be concluded and any and all moneys remaining held by the commission, collected by assessment and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding current marketing season. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to those persons, any moneys remaining and any 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.

72135. Upon suspension of the operation of this chapter and of the commission, the commission shall mail a copy of the notice of suspension to all producers and handlers affected by the suspension whose names and addresses are on file.

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 892

An act to add Sections 39021.5, 39024.5, and 43660 to, and to add and repeal Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of, the Health and Safety Code, and to amend Sections 4000.1, 4000.2, and 4602.1 of, and to add Section 4000.3 to, the Vehicle Code, relating to air pollution, and making an appropriation therefor.

[Approved by Governor September 9, 1982. Filed with Secretary of State September 10, 1982.]

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

SECTION 1. Section 39021.5 is added to the Health and Safety Code, to read:

39021.5. "Components of emissions control systems" are those parts included in the state board's "Emissions Warranty Parts List," dated December 14, 1978, referenced in subdivision (c) of Section 2036 of Title 13 of the California Administrative Code.

SEC. 1.2. Section 39024.5 is added to the Health and Safety Code, to read:

39024.5. "Department" means the Department of Consumer Affairs.

SEC. 1.7. Section 43660 is added to the Health and Safety Code, to read:

43660. The state board shall review the requirement that every 1966 through 1970 light-duty motor vehicle be equipped with a certified device to control its exhaust emissions of oxides of nitrogen upon initial registration and upon transfer of ownership and registration, to determine the contribution of that requirement to the maintenance of ambient air quality standards in the state and the cost effectiveness of that requirement. The state board shall report to the Legislature its findings and recommendations with regard to the requirement not later than January 1, 1984.

SEC. 2. Chapter 5 (commencing with Section 44000) is added to Part 5 of Division 26 of the Health and Safety Code, to read:

CHAPTER 5. MOTOR VEHICLE INSPECTION PROGRAM

Article 1. General

44000. It is the intent of the Legislature, in enacting this chapter, to commit the State of California to the steps necessary to commence a biennial motor vehicle inspection and maintenance program in the urban nonattainment areas of the state as soon as practicable after January 1, 1983.

44001. This chapter shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

44002. The department shall have the sole and exclusive authority within the state for developing and implementing the motor vehicle inspection program in accordance with this chapter.

For the purposes of administration and enforcement of this chapter, the department, and the director and officers and employees thereof, shall have all the powers and authority granted under Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code and under Chapter 33 (commencing with Section 3300) of Title 16 of the California Administrative Code. Inspections and repairs performed pursuant to this chapter, in addition to meeting the specific requirements imposed by this chapter, shall also comply with all requirements imposed pursuant to Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code and Chapter 33 (commencing with Section 3300) of Title 16 of the California Administrative Code.

44003. Any district, or portion thereof, located within a federally designated urban nonattainment area for the primary federal ambient air quality standards for ozone or carbon monoxide may request the department to implement within its area of jurisdiction

a motor vehicle inspection program which meets the requirements of this chapter. The area to be covered by the program shall be specified by the requesting district.

44004. (a) The motor vehicle inspection program provided by this chapter, when implemented in a district, shall supersede and replace any other program for motor vehicle emission inspection in the district.

However, this chapter shall not apply to any vehicle permanently located on an island in the Pacific Ocean located 20 miles or more from the mainland coast.

(b) The motor vehicle inspection program provided by this chapter shall be in accordance with Sections 4000.1, 4000.2, and 4000.3 of the Vehicle Code.

44005. The department, with the cooperation of the Department of Motor Vehicles, shall implement the motor vehicle inspection program provided for by this chapter consisting of a testing portion, a repair portion, and a consumer protection-oriented quality assurance portion, in accordance with the requirements of this chapter.

The program shall provide for inspection of motor vehicles upon initial registration, biennially upon renewal of registration, and upon transfer of ownership.

44006. The department shall implement the program as expeditiously as possible, after January 1, 1983.

Article 2. Program Requirements

44010. The motor vehicle inspection program shall provide for privately operated vehicle test stations and repair stations which shall be authorized to issue certificates of compliance to vehicles which meet the requirements specified in this chapter.

44011. All motor vehicles powered by internal combustion engines which are registered and garaged within a nonattainment area designated for program coverage shall be required biennially to obtain a certificate of compliance, except for all of the following:

(a) Every motorcycle, every heavy-duty vehicle, and every diesel-powered vehicle, until the department determines that the inclusion of those vehicles is technologically and economically feasible.

(b) Any motor vehicle which has been issued a certificate of compliance or a waiver upon a change of ownership or initial registration in this state during the preceding 12 months.

(c) Any motor vehicle over 20 years old, as determined by the department.

(d) Any other vehicle which the department determines would present prohibitive inspection or repair problems.

44012. The test at the test stations shall include all of the following:

(a) A determination that emission control devices and systems

required by state and federal law are installed and functioning correctly in accordance with the test procedure adopted pursuant to subdivision (b) of Section 44013.

(b) A test of the vehicle's exhaust emissions of hydrocarbons, carbon monoxide, and carbon dioxide in an idle mode or loaded mode in accordance with the procedure prescribed by the department. Testing for nitrogen oxide emissions shall be included at the option of the district requesting the inspection program.

(c) A determination as to whether the vehicle complies with the emission standards for that vehicle's class and model-year as prescribed by the department.

44013. (a) The department, in cooperation with the state board, shall prescribe maximum emission standards to be applied in inspecting motor vehicles under this chapter.

In prescribing the standards, the department shall undertake studies and experiments which are necessary and feasible, evaluate available data, and confer with automotive engineers.

The standards shall be set at a level reasonably achievable for each class and model of motor vehicle when operating in a reasonably sound mechanical condition, allowing for the effects of installed motor vehicle pollution control devices and the motor vehicle's age and total mileage. The standards shall be designed so that motor vehicles will be operated, as soon as possible, with a substantial reduction in emissions, and shall be revised from time to time as experience justifies.

(b) The department, in cooperation with the state board, shall prescribe test procedures to be applied in inspecting motor vehicles under this chapter, which procedures shall be simple, cost effective, and consistent with the requirements of Section 44012. The department may revise the test procedures from time to time as experience justifies.

44014. (a) The testing portion of the program shall be conducted by automotive test stations licensed by the department, and by test mechanics who have qualified by completing courses prescribed by the department, pursuant to this chapter.

(b) The repair portion of the program shall be conducted by repair stations licensed by the department, and by repair mechanics who have qualified by completing courses prescribed by the department, pursuant to this chapter if the repairs are performed for compensation.

(c) The consumer protection-oriented quality assurance portion of the program shall be conducted by more than one private entity on a statewide basis pursuant to contracts with the department.

44015. (a) A licensed test station or a licensed repair station shall issue a certificate of compliance signed by a licensed inspector for a vehicle if it meets the requirements of Section 44012.

(b) A licensed repair station shall issue a certificate of compliance signed by a licensed inspector for a vehicle if a low-emissions service and adjustment is performed, measurements of the emissions before

and after the low-emissions service and adjustment are made and recorded by a qualified repair mechanic, and the mechanic certifies that the emission reductions achieved are the maximum that can be obtained without exceeding the cost limitation established by the department.

(c) With the approval of the department, a certificate of compliance may be issued by a licensed repair station when a qualified repair mechanic certifies that no adjustment or repair can be made that will reduce emissions from the inspected vehicle without exceeding the cost limitation established by the department.

(d) A certificate of compliance shall be valid for 90 days.

(e) A test may be made at any time within three months prior to the date otherwise required.

44016. The department shall, with the cooperation of the state board and after consultation with the motor vehicle manufacturers and representatives of the service industry, establish and update as necessary, specifications and procedures for motor vehicle maintenance and tuneup procedures and for repair of motor vehicle pollution control devices and systems referred to in this chapter as low-emissions service and adjustment. Licensed repair stations and qualified mechanics shall perform low-emissions service and adjustment in accordance with specifications and procedures so established.

44017. The department shall set a cost limitation on low-emission service and adjustment, including parts and repairs, which may vary from district to district, based upon the rate which mechanics charge in the different districts. The cost limitation on the low-emissions service and adjustment shall be set initially at not more than fifty dollars ($50), and may be increased to one hundred dollars ($100) taking into consideration mechanics' hourly rates and increases in the cost of living as reflected in the Consumer Price Index, as published by the United States Bureau of Labor Statistics. No limit shall be imposed in those cases where emissions control equipment is missing or is partially or totally inoperative as a result of tampering.

44018. (a) The motor vehicle inspection program may include advisory safety and fuel efficiency checks on the motor vehicle if the department finds that a cost effective method for conducting a check exists and that the cost of the inspection to the vehicle owner due to the additional checks would not be increased by more than 10 percent. The department shall specify the equipment to be checked and the procedures for conducting the checks.

(b) If an advisory safety check is performed, the entity performing the check shall give a notice to the motor vehicle owner which states that, under California law, the owner is personally liable for personal or property damage which is caused, or contributed to, by failure of the vehicle to operate properly.

44019. The motor vehicle inspection program shall require that any motor vehicle subject to this chapter owned by a governmental entity or public utility, and not required by law to have its

registration renewed, be tested, and that necessary service and adjustments be performed, in accordance with a schedule established by the department.

44020. Notwithstanding any other provision of this chapter, the department may license any owner of a fleet of 15 or more motor vehicles subject to this chapter, who so elects, to implement and conduct the tests and to perform necessary service and adjustment on the fleet's vehicles under this chapter, subject to all of the following conditions:

(a) The owner's facilities or personnel, or both, or a designated contractor of the owner, shall be certified by the department, and the test and repair system shall conform, in the department's determination, with all provisions of this chapter and all rules and regulations adopted by the department. The regulations shall provide for adequate onsite inspection by the department.

(b) A license issued under this section shall be suspended or rescinded by the department whenever the department determines, on the basis of random spot checks of the owner's inspection system and fleet vehicles, that the system fails to conform or that certificates of compliance have been issued by the owner in violation of regulations adopted by the department. Any person licensed to conduct tests and service and adjustments under this section is deemed to have consented to provide the department with whatever access, information, and other cooperation the department reasonably determines are necessary to facilitate the random spot checks.

(c) A fleet owner authorized to conduct tests or make repairs pursuant to this chapter shall issue certificates of compliance for motor vehicles which comply with the requirements of this chapter. The cost limitations in Section 44017 shall not apply to any motor vehicle owned by a fleet owner licensed pursuant to this section.

44021. (A) The department shall conduct ongoing cost benefit analyses and other evaluations of the inspection program, including, but not limited to, observed patterns of malfunctions in inspected motor vehicles' emissions control systems, inspection and repair costs, the failure rate after repairs, and recommendations for legislation to improve the inspection program.

Commencing not later than two years after the date of implementation of the program, the department shall submit periodic written reports, at least every 12 months, to the Legislature on the analyses and evaluations of the program. The department shall conduct at least one public hearing prior to submitting the first report and shall include pertinent information which it receives from the public hearing in that report.

(b) A review committee is hereby created to analyze the effect of the program on vehicle emissions and air quality. The review committee shall consist of a representative from the state board and a representative from each of the districts in which the motor vehicle inspection program has been implemented. The committee shall

conduct at least one public hearing prior to submitting its report to the Legislature and shall include pertinent information which it receives from the public hearings in its report. The first report shall be submitted not later than 36 months following the implementation of the program. Thereafter, the committee shall submit periodic written reports to the Legislature on the program at least every 24 months.

The committee's report shall quantify the reduction in emissions and improvement in air quality attributed to the program. If the study determines that the average reduction in emissions of hydrocarbons and carbon monoxide from inspected vehicles is less than 10 percent, the report shall recommend improvements to increase the effectiveness of the program. If the committee cannot identify and recommend improvements to the program to achieve emissions reductions of at least 10 percent, the report shall recommend termination of the program.

Article 3. Quality Assurance

44030. (a) The department shall develop standards for the licensing of test stations. Tests performed at test stations shall be performed by a qualified test mechanic.

The licensing standards for test stations may include, but not be limited to, requirements for all of the following:

(1) Use of computerized and tamper-resistant analyzers.

(2) Annual license renewal.

(3) Onsite availability of current emission control system information.

(b) The department shall develop standards for the licensing of repair stations. Service and adjustment at repair stations shall be performed by a qualified repair mechanic.

The licensing standards for repair stations may include, but not be limited to, requirements for all of the following:

(1) Use of computerized and tamper-resistant analyzers.

(2) Annual license renewal.

(3) Onsite availability of current emission control system information and service and adjustment procedures.

44031. The owner or manager of every licensed test station and of every licensed repair station shall be a licensed inspector.

44031.5. (a) No test mechanic or repair mechanic may perform tests or make repairs for compensation, unless qualified by the completion of training courses prescribed and administered by the department.

(b) The department shall prescribe and administer training and periodic retraining courses for test mechanics and for repair mechanics. Test mechanics and repair mechanics shall have the option to do hands-on work in lieu of written work in order to successfully complete the training and retraining courses. The department shall issue a certificate of completion to each person

successfully completing the courses and testing.

(c) There is hereby created a training course advisory board to assist and advise the department in recommending the form and content of training courses. The advisory board shall consist of five members appointed by the Director of Consumer Affairs, of whom two shall represent repair station or test station owners or managers, two shall represent repair or test mechanics, and one shall be a public member. The members of the advisory board shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses in performing their duties under this subdivision.

44032. No person shall perform, for compensation, tests or repairs of emission control devices or systems of vehicles in an area where the program provided by this chapter is being implemented, unless the person performing the test or repair is a qualified test mechanic or qualified repair mechanic and the test or repair is performed at a licensed test or repair station, respectively.

44033. (a) Any facility meeting the requirements established by the department pursuant to this chapter may be licensed as a repair station or test station. A licensed station shall display an identifying sign prescribed by the department in a manner conspicuous to the public. Licensed repair stations shall be authorized to do tests, and shall meet all the requirements established for both test stations and repair stations.

(b) No licensed test station shall require, as a condition of performing the test, that any needed repairs or adjustment be done by the person, or at the facility of the person, performing the test.

(c) If a vehicle is tested at a facility licensed to do both testing and repairs, no service or adjustment shall be performed on the vehicle at the facility, unless the customer signs a written acknowledgment and waiver that he understands his rights to have service and adjustment done elsewhere and expressly waives his rights.

(d) Charges for testing or repair, or both, shall be separately stated.

(e) The department shall require the posting of station licenses, inspector licenses, and qualified mechanics certificates prominently in each place of business so as to be readily visable to the public.

44034. Annual license fees for test stations and repair stations, and training course fees for test mechanics and repair mechanics, may be imposed by the department, but shall not exceed the reasonable cost of administering the qualifications and licensing program and shall not exceed ten dollars ($10).

44035. A test station's license, and a repair station's license, may be suspended or revoked by the department, after a hearing, for failure to meet or maintain the standards prescribed for qualification, equipment, performance, or conduct. The department shall adopt rules and regulations governing the suspension, revocation, and reinstatement of licenses and the conduct of the hearings.

44036. (a) The consumer protection-oriented quality assurance

portion shall ensure uniform and consistent tests and repairs by all qualified mechanics and licensed test stations and repair stations throughout the district, and shall include a number of referee stations available to consumers. Sufficient referee stations shall be provided to accommodate at least 2 percent of the vehicles subject to the requirements of this chapter.

(b) All licensed test or repair stations shall utilize equipment which has been certified by the department. The department shall adopt standards for certification of the equipment, which shall include all of the following:

(1) A microprocessor to control test sequencing, selection of proper test standards, the automatic pass or fail decision, and the format for the test report and recorded magnetic tape file.

(2) An exhaust gas analysis portion.

(3) A device to accept and record vehicle identification information.

(4) A device to provide a printed record of the test process for the motorist.

(c) The department may approve certified test equipment in use prior to January 1, 1982, if the equipment meets the specifications developed by the department under subdivision (b). Any equipment required may be supplied by a single supplier in any nonattainment area if it is determined that there would be a demonstrable cost savings as shown through the solicitation and evaluation of competitive bids for each nonattainment area. If it is determined that any equipment required shall be supplied by a single supplier, the supplier shall enter into a master agreement with the department specifying the prices, terms, and conditions under which the supplier will provide equipment in a uniform manner within the nonattainment area. The master agreement shall contain terms consistent with the bid upon which it is based.

(d) In contracting pursuant to subdivision (c) of Section 44014, the department shall prepare detailed specifications and solicit bids from private entities for the implementation of the quality assurance portion. The quality assurance portion shall provide for inspections of licensed test stations and repair stations, data collection and forwarding, equipment accuracy checks, operation of referee stations, and other necessary functions.

44037. The department shall compile and maintain records, using the sampling methodology necessary to ensure their scientific validity and reliability, of tests and repairs performed by qualified mechanics at licensed test stations and repair stations pursuant to this chapter on all of the following information:

(a) The vehicle identification information and the test data collected at the station.

(b) The number of maintenance and repair operations performed on motor vehicles which fail to pass a test conducted pursuant to the provisions of this chapter.

(c) The correlation between maintenance and repairs

recommended by the department pursuant to Section 44016 and maintenance and repairs performed.

(d) The charges assessed for the service and repairs.

(e) Any other information deemed essential by the department.

A written summary of all the above information shall be published quarterly for the mechanics and dealers in each district and shall be available to the public upon request.

44038. Each test station shall transmit vehicle data and emission test results to the department. Each repair station shall transmit to the department vehicle data and emission measurements made before and after low-emission service and adjustment. The department shall establish, by regulation, the form, manner, and frequency of the data transmittals.

44039. A written summary of the required information applicable to test and repair stations in each district shall be published semiannually by the department and made available upon request to the owner of any motor vehicle subject to this chapter.

Article 4. Penalties

44050. Any person who violates any provision of this chapter, or any order, rule, or regulation of the department adopted pursuant to this chapter, shall be liable for a civil penalty not to exceed five hundred dollars ($500) for each day in which each violation occurs. Any action to recover civil penalties shall be brought by the attorney general in the name of the state on behalf of the department, or may be brought by any district attorney, city attorney, or attorney for a district.

44051. A continuing violation of any provision of this chapter, or any order, rule, or regulation of the department adopted pursuant to this chapter, may be enjoined by the superior court of the county in which the violation is occurring. The action shall be brought by the attorney general in the name of the state on behalf of the department, or may be brought by any district attorney, city attorney, or attorney for a district. An action brought under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that it shall not be necessary to show lack of an adequate remedy at law or to show irreparable damage or loss.

In addition, if it is shown that the respondent continues, or threatens to continue, to violate any provision of this chapter, or any order, rule, or regulation of this department adopted pursuant to this chapter, it shall be sufficient proof to warrant the immediate granting of a temporary restraining order.

Article 5. Financial Provisions

44060. The department shall prescribe the form of the certificate of compliance. The department shall charge a fee to licensed test

stations and repair stations for the issuance by the department to the stations of certificate of compliance forms. The fee charged shall be calculated to allow funding of the department and shall not exceed the amount reasonably necessary to fund the operation of the motor vehicle inspection program, including all responsibilities, requirements, and obligations imposed upon the department by this chapter, which are not otherwise recoverable by license fees pursuant to Section 44034. In no event shall the fee for each certificate of compliance exceed six dollars ($6). It is the intent of the Legislature that the Vehicle Inspection Fund shall maintain a prudent surplus. If the surplus exceeds reasonable costs of administration of the program, the department shall, by regulation, prescribe a lower fee for the certificate of compliance.

44061. The fees collected by the department pursuant to Sections 44034 and 44060, and penalties collected pursuant to Section 44050, shall be deposited in the Vehicle Inspection Fund in accordance with the procedures established by the department, and shall be available to the department to carry out its functions and duties specified in this chapter upon appropriation by the Legislature.

SEC. 3. Section 4000.1 of the Vehicle Code is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b), (c), or (d) of this section, or subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require upon initial registration, and 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, a valid certificate of compliance or a certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code or with Section 9889.18 or 9889.56 of the Business and Professions Code.

(b) 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 8,500 pounds or less, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

(c) 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.

(d) Subdivision (a) shall not apply to a transfer of ownership and registration when:

(1) The transferor is either the parent, grandparent, child, 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.

(e) 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 such action.

SEC. 3.5. Section 4000.1 of the Vehicle Code is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b), (c), or (d) of this section, or subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require upon initial registration, and 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 or a certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code or with Section 9889.18 or 9889.56 of the Business and Professions Code.

(b) 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 8,500 pounds or less, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

(c) 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.

(d) 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.

(e) 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. 4. Section 4000.2 of the Vehicle Code is amended to read:

4000.2. (a) Except as otherwise provided in subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require upon registration of a motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, previously registered outside this state, a valid

certificate of compliance or a certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code or with Section 9889.18 or 9889.56 of the Business and Professions Code.

(b) 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.

SEC. 5. Section 4000.3 is added to the Vehicle Code, to read:

4000.3. (a) Except as otherwise provided in Section 44011 of the Health and Safety Code, following implementation in a district of a motor vehicle inspection program pursuant to Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code, the department shall require biennially, upon renewal of registration of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, a valid certificate of compliance issued in accordance with Section 44015 of the Health and Safety Code. The department shall develop a schedule under which vehicles shall be required biennially to obtain certificates of compliance.

(b) The Department of Consumer Affairs may exempt designated classifications of motor vehicles from subdivision (a) pursuant to Section 44011 of the Health and Safety Code.

(c) The Department of Consumer Affairs shall provide the department with information on program area boundaries and vehicle classes that are subject to the motor vehicle inspection and maintenance program.

SEC. 6. Section 4602.1 of the Vehicle Code is amended to read:

4602.1. (a) Except as otherwise provided in Sections 44004 and 44015 of the Health and Safety Code, in addition to any other requirements with respect to the registration of motor vehicles, the department shall also require upon initial registration of a motor vehicle previously registered in another state, and transfer of 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, subsequent to the first inspection of such vehicle required by such chapter, that the owner submit a valid certificate of compliance or waiver for the vehicle issued pursuant to Section 9889.56 of such 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, 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. 6.5. Section 4602.1 of the Vehicle Code is amended to read:

4602.1. (a) Except as otherwise provided in Sections 44004 and 44015 of the Health and Safety Code, in addition to any other requirements with respect to the registration of motor vehicles, the department shall also require upon initial registration, and 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 ownership and 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. Notwithstanding the provisions of Item 187 of the Budget Act of 1977 (Ch. 219, Stats. 1977) and Item 180 of the Budget Act of 1978 (Ch. 359, Stats. 1978), no portion of any loan made pursuant to those items shall be required to be repaid prior to January 1, 1986.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill 3114 are both chaptered and become effective January 1, 1983, both bills amend Section 4000.1 of the Vehicle Code, and this bill is chaptered after Assembly Bill 3114, that the amendments to Section 4000.1 proposed by both bills be given effect and incorporated in Section 4000.1 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 3114 are both chaptered and become effective January 1, 1983, both amend Section 4000.1, and this bill is chaptered after Assembly Bill 3114, in which case Section 3 of this act shall not become operative.

SEC. 9. It is the intent of the Legislature, if this bill and Assembly Bill 3114 are both chaptered and become effective January 1, 1983, both bills amend Section 4602.1 of the Vehicle Code, and this bill is chaptered after Assembly Bill 3114, that the amendments to Section

4602.1 proposed by both bills be given effect and incorporated in Section 4602.1 in the form set forth in Section 6.5 of this act. Therefore, Section 6.5 of this act shall become operative only if this bill and Assembly Bill 3114 are both chaptered and become effective January 1, 1983, both amend Section 4602.1, and this bill is chaptered after Assembly Bill 3114, in which case Section 6 of this act shall not become operative.

SEC. 10. The sum of three million five hundred thousand dollars ($3,500,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the Director of Finance to be allocated as loans to the Department of Consumer Affairs for the purposes of Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code. Any loan made pursuant to this section shall be repaid on terms and conditions as may be prescribed by the Department of Finance, including interest at the rate earned by the Pooled Money Investment Account, on or before December 31, 1984, from any revenues from fees collected pursuant to Section 44060 of the Health and Safety Code.

CHAPTER 893

An act to amend Sections 21, 22, 28, and 188 of the Penal Code, relating to criminal law.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 21 of the Penal Code is amended to read:

21. (a) The intent or intention is manifested by the circumstances connected with the offense.

(b) In the guilt phase of a criminal action or a juvenile adjudication hearing, evidence that the accused lacked the capacity or ability to control his conduct for any reason shall not be admissible on the issue of whether the accused actually had any mental state with respect to the commission of any crime. This subdivision is not applicable to Section 26.

SEC. 2. Section 22 of the Penal Code is amended to read:

22. (a) No act committed by a person while in a state of voluntary intoxication is less criminal by reason of his having been in such condition. Evidence of voluntary intoxication shall not be admitted to negate the capacity to form any mental states for the crimes charged, including, but not limited to, purpose, intent, knowledge, premeditation, deliberation or malice aforethought, with which the accused committed the act.

(b) Evidence of voluntary intoxication is admissible solely on the issue of whether or not the defendant actually formed a required

specific intent, premeditated, deliberated, or harbored malice aforethought, when a specific intent crime is charged.

(c) Voluntary intoxication includes the voluntary ingestion, injection, or taking by any other means of any intoxicating liquor, drug, or other substance.

SEC. 3. Section 28 of the Penal Code is amended to read:

28. (a) Evidence of mental disease, mental defect, or mental disorder shall not be admitted to negate the capacity to form any mental state, including, but not limited to, purpose, intent, knowledge, premeditation, deliberation, or malice aforethought, with which the accused committed the act. Evidence of mental disease, mental defect, or mental disorder is admissible solely on the issue whether or not the accused actually formed a required specific intent, premeditated, deliberated, or harbored malice aforethought, when a specific intent crime is charged.

(b) As a matter of public policy there shall be no defense of diminished capacity, diminished responsibility, or irresistible impulse in a criminal action or juvenile adjudication hearing.

(c) This section shall not be applicable to an insanity hearing pursuant to Section 1026 or 1429.5.

(d) Nothing is this section shall limit a court's discretion, pursuant to the Evidence Code, to admit or exclude psychiatric or psychological evidence on whether the accused had a mental disease, mental defect, or mental disorder at the time of the alleged offense.

SEC. 4. Section 188 of the Penal Code is amended to read:

188. Such malice may be express or implied. It is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow creature. It is implied, when no considerable provocation appears, or when the circumstances attending the killing show an abandoned and malignant heart.

When it is shown that the killing resulted from the intentional doing of an act with express or implied malice as defined above, no other mental state need be shown to establish the mental state of malice aforethought. Neither an awareness of the obligation to act within the general body of laws regulating society nor acting despite such awareness is included within the definition of malice.

SEC. 5. The amendments to Penal Code Sections 21, 22, and 188 are declaratory of existing law.

CHAPTER 894

An act to amend Section 13507 of the Penal Code, and to amend Section 12820 of the Public Utilities Code, relating to training, and making an appropriation therefor.

[Approved by Governor September 10, 1982 Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 13507 of the Penal Code is amended to read:

13507. As used in this chapter, "district" means any of the following:

(a) A regional park district.

(b) A district authorized by statute to maintain a police department.

(c) The University of California.

(d) The California State University and Colleges.

(e) A community college district.

(f) A municipal utility district formed prior to January 1, 1974, and containing a population of one million or more on such date.

SEC. 2. Section 12820 of the Public Utilities Code is amended to read:

12820. (a) A district may employ a suitable security force. The employees of the district that are designated by the general manager as security officers shall have the authority and powers conferred by subdivision (i) of Section 830.31 of the Penal Code upon peace officers. The district shall adhere to the standards for recruitment and training of peace officers established by the Commission on Peace Officer Standards and Training pursuant to Title 4 (commencing with Section 13500) of Part 4 of the Penal Code.

(b) Every security officer employed by a district shall conform to the standards for peace officers of the Commission on Peace Officer Standards and Training. Any officer who fails to conform to these standards shall not continue to have the powers of a security officer.

CHAPTER 895

An act to amend Sections 69506, 69510, 69511, and 94120 of, and to add Section 69511.5 to, the Education Code, relating to postsecondary education.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 69506 of the Education Code is amended to read:

69506. Notwithstanding any other provision of law, the Student Aid Commission or any public postsecondary educational institution shall not consider the income of an applicant's parents in the determination of an applicant's financial need if the applicant meets all of the following requirements:

(a) Has not and will not be claimed as an exemption for state and federal income tax purposes by his or her parent in the calendar years aid is received and in any of the three calendar years prior to the award period for which aid is requested.

(b) Has not and will not receive more than seven hundred fifty dollars ($750) per year in financial assistance from his or her parent in the calendar years in which aid is received and in any of the three calendar years before the award period for which aid is requested.

(c) Has not lived and will not live for more than six weeks in the home of his or her parent during the calendar year aid is received and in any of the three calendar years before the award period for which aid is requested.

Nothing in this section shall exempt any applicant from submitting parental income information pursuant to Section 69672, or from submitting such information solely because the applicant comes within the provisions of Section 211 of the Civil Code.

With respect to any action taken by the Student Aid Commission on or after August 1, 1981, the amendments to this section which became effective January 1, 1982, are deemed to have been operative on and after August 1, 1981.

Whenever it determines that it is in the best interest of the state to do so, the Student Aid Commission may adopt regulations which change provisions of subdivisions (b) and (c) of this section in order to conform with changes in the federal definition of student independence from parents for purposes of student financial assistance, as set forth in regulations promulgated pursuant to subparagraph (1) of subdivision (c) of Section 1089 of Title 20 of the United States Code.

SEC. 2. Section 69510 of the Education Code is amended to read:

69510. The Student Aid Commission shall be composed of the following 11 members:

(a) One representative from public, proprietary, or nonprofit postsecondary schools located in California.

(b) One representative from a California independent college or university.

(c) One representative each from the University of California, the California State University, and the California community colleges.

(d) Two members each of whom shall be a student enrolled in a California postsecondary educational institution at the time of appointment.

(e) Three public members.

(f) One representative from a California secondary school.

SEC. 3. Section 69511 of the Education Code is amended to read:

69511. (a) Each member of the commission shall have a four-year term; provided, that members appointed pursuant to subdivision (d) of Section 69510 shall have two-year terms.

(b) The members appointed pursuant to subdivisions (a), (d), and (f) of Section 69510 shall be appointed effective January 1, 1976.

(c) At no time shall both student representatives be enrolled in

the same segment of postsecondary education in California. For purposes of this subdivision, each postsecondary education program listed in subdivisions (a), (b), and (c) of Section 69510 is a segment of postsecondary education in California.

(d) Appointment to the commission shall be made by the Governor subject to confirmation by the Senate.

(e) Any vacancy shall be filled by the appointment of a person who will have the same status as the predecessor of the appointee. The appointee shall hold office only for the balance of the unexpired term.

(f) Each member of the commission shall receive a stipend of fifty dollars ($50) for each day in which he or she attends any meeting of the commission or any meeting of any committee or subcommittee of the commission, of which committee or subcommittee he or she is a member, and which committee or subcommittee meeting is conducted for the purpose of carrying out the powers and duties of the commission and, in addition, shall receive his or her actual and necessary traveling expenses incurred in the course of his or her duties.

(g) Whenever by the provisions of any act of Congress a program of scholarships or grants for undergraduate students is established which permits administration of such program within a state by a state agency, the Student Aid Commission, as established by Section 69510, shall administer such act within the state if the Governor and the Student Aid Commission, by a majority vote of its entire membership, determine that the participation by the state in the federal scholarship or grant program under such act would not interfere with or jeopardize the continuation of the scholarship program established under Sections 69530 to 69547, inclusive.

The commission shall constitute the state commission on federal scholarships or grants and is hereby empowered to formulate a plan for development and administration of any such federal scholarship or grant program within the state.

Subject to the provisions of this chapter, the commission 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 any act of Congress establishing a scholarship or grant program and the rules and regulations adopted thereunder.

Before adopting a state plan the Student Aid Commission, acting as the state commission on federal scholarships or grants, shall hold public hearings as provided in the California Administrative Procedure Act.

SEC. 4. Section 69511.5 is added to the Education Code, to read:

69511.5. (a) Notwithstanding Section 69511, the Governor shall appoint each student member of the Student Aid Commission pursuant to subdivision (d) of Section 69510 from the persons nominated in accordance with the provisions of subdivision (b).

(b) For each student member of the commission, the appropriate student organization of each of the four postsecondary education

segments may submit a list of nominees. The appropriate student organizations are:

(1) The California State Student Association.

(2) The University of California Student Body President's Council.

(3) The California Association of Independent College and University Students.

(4) A composite group of representative community college student organizations, as determined by the Chancellor of the California Community Colleges.

(c) Participating student organizations designated in subdivision (b) shall inform students within their respective segment of pending student vacancies on the commission.

(d) Any person appointed pursuant to subdivision (a) may be reappointed if the person is renominated pursuant to subdivision (b), but in no event shall the person be reappointed for more than two consecutive terms if the student is enrolled in the same postsecondary education segment as the one in which he or she was enrolled when first appointed.

(e) The person appointed as a student member of the Student Aid Commission pursuant to this section shall be subject to confirmation by the Senate as required in subdivision (d) of Section 69511.

SEC. 5. Section 94120 of the Education Code is amended to read:

94120. (a) There is in the state government an authority known as the California Educational Facilities Authority. The authority constitutes a public instrumentality and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential public function.

(b) The authority shall consist of five members: the Director of Finance, the Controller, the Treasurer, who shall serve as chairperson of the authority, and two members appointed by the Governor to serve for terms of four years; provided that the terms of the members first appointed shall be arranged by the Governor so that such terms shall expire on April 30 in different years. One of the members appointed by the Governor shall be affiliated with a public institution of higher education as a governing board member or in an administrative capacity and the other member shall be affiliated with a private institution of higher education as a governing board member or in an administrative capacity. Each member shall hold office for the term of his or her appointment and shall continue to serve during the term of his or her successor unless and until his or her successor shall have been appointed and qualified. Any vacancy among the members appointed by the Governor shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

(c) Any member of the authority appointed by the Governor may be removed from office by the Governor for cause after a public hearing.

(d) The members of the authority shall serve without

compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

(e) The authority, upon the first appointment of its members and thereafter on or after April 30 in each year, shall annually elect from among its members a vice chairperson who shall hold office until April 30 next ensuing and shall continue to serve during the term of his or her successor unless and until his or her successor shall have been appointed and qualified.

CHAPTER 896

An act to amend Sections 601, 602, and 603 of the Labor Code, relating to labor.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 601 of the Labor Code is amended to read:

601. No railroad corporation or any officer, agent or representative of such corporation shall require or knowingly permit any trainman to be on duty for a longer period than 12 consecutive hours.

SEC. 2. Section 602 of the Labor Code is amended to read:

602. Whenever any trainman has been continuously on duty for 12 hours he shall be relieved and not required or permitted again to go on duty or perform any work for the railroad corporation until he has had at least 10 consecutive hours off duty.

SEC. 3. Section 603 of the Labor Code is amended to read:

603. No trainman who has been on duty 12 hours in the aggregate in any 24-hour period shall be required or permitted to continue or again go on duty without having had at least 8 consecutive hours off duty.

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 897

An act to amend Sections 8746 and 8780 of, to amend and renumber Section 8747 of, and to add Article 6 (commencing with Section 8785) to Chapter 5 of Division 8 of Part 3 of, the Health and Safety Code, relating to cemeteries.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 8746 of the Health and Safety Code is amended to read:

8746. Any person, partnership, corporation, association, or his, her, or its agents or representatives, who shall violate any of the provisions of this article, except as provided in Section 8785, or make any willful or false statement appearing on a sign, contract, agreement, receipt, statement, literature or other publication shall be guilty of a misdemeanor.

SEC. 2. Section 8747 of the Health and Safety Code is amended and renumbered to read:

8781. It shall be unlawful for a cemetery authority, its officers, employees or agents, or a cemetery broker or salesman to represent that an endowment care fund or any other fund set up for maintaining care is perpetual or permanent.

SEC. 3. Section 8780 of the Health and Safety Code is amended to read:

8780. No person, partnership, corporation, association, or his, her, or its agents or representatives, shall sell, offer for sale, or advertise any plot under representation that the plot is under endowment care, before an endowment care fund has been established for the cemetery in which the plot is situated.

SEC. 4. Article 6 (commencing with Section 8785) is added to Chapter 5 of Division 8 of Part 3 of the Health and Safety Code, to read:

Article 6. Penalties

8785. Any person, partnership, or corporation administering, managing, or having responsibility for endowment care or special care funds who violates the provisions of this chapter relating to the collection, investment, or use of those funds shall be punished either by imprisonment in the county jail for a period not exceeding six months or by fine not exceeding five hundred dollars ($500), or by both such imprisonment and fine, or by imprisonment in the state prison for 16 months, or two or three years. If the violator is a cemetery licensee or the holder of a certificate of authority, he, she, or it shall be subject to disciplinary action as provided in Article 6

(commencing with Section 9725) of Chapter 19 of Division 3 of the Business and Professions Code.

SEC. 5. 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 898

An act to add Chapter 7 (commencing with Section 8950) to Part 6 of Division 1 of the Education Code, and to amend Section 4104 of the Food and Agricultural Code, relating to cultural institutions.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Chapter 7 (commencing with Section 8950) is added to Part 6 of Division 1 of the Education Code, to read:

CHAPTER 7. CALIFORNIA STATE SUMMER SCHOOL FOR THE ARTS

8950. The Legislature finds and declares that the arts and entertainment industries constitute the third largest business sector in the state, and that it is within the interests of the people of the State of California to preserve the artistic and economic benefits which are derived from these major industries through the establishment of a comprehensive arts education program which will enable artistically gifted and talented students to receive intensive summer instruction in the arts. It is the intent of the Legislature that the California State Summer School for the Arts be established to provide a professional training ground for future artists who may wish to pursue careers in the major performing arts companies and the commercial and fine arts institutions in California.

8951. As used in this chapter, the term "arts" includes, but is not limited to, dance; drama; music; folk art; creative writing; architecture and allied fields; visual arts, including painting, sculpture, photography, graphic arts and craft arts, industrial design, costume and fashion design; film; and video.

8952. (a) The California Arts Council and the State Department of Education shall establish a 24 member California State Summer School for the Arts Advisory Council. Representatives of the advisory

council shall be chosen from eight geographic regions established by the California Arts Council and the State Department of Education. The membership of the advisory council shall be broadly representative of the arts and educational leadership in the state, and shall include members of organizations comprised of arts educators, school administrators, visual and performing artists, representatives of various arts institutions, and distinguished citizens from the state.

(b) The advisory council shall assist in the program development activities associated with the establishment of the California State Summer School for the Arts, and shall assist in the selection of faculty and instructors.

(c) Notwithstanding the provisions of Section 11030 of the Government Code, the reimbursement which shall be made available to members of the California State Summer School for the Arts Advisory Council for the actual necessary traveling expenses shall be limited to an amount not to exceed fifteen thousand dollars ($15,000) in each fiscal year.

8953. The California Arts Council and the State Department of Education shall promulgate rules and regulations governing fees, applications, and admission to the California State Summer School for the Arts. The adopted rules and regulations shall specify that the enrollment shall be comprised of talented high school students. The adopted rules and regulations shall also establish a scholarship and reduced fee program for disadvantaged students who are unable to pay the full fees.

8954. The period of instruction for the California State Summer School for the Arts may commence one week following the end of the school year, but shall be concluded no later than one week prior to the commencement of the next school year. The faculty of the school shall be comprised of both arts educators and professional artists.

8955. It is the intent of the Legislature that operating and program costs may be provided through the acceptance of public and private funds contributed through the California Alliance for Arts Education. It is also the intent of the Legislature that, whenever feasible, state facilities, including facilities which may be made available by the California State University and the University of California, may be utilized for the California State Summer School for the Arts instructional programs.

8956. Prior to the establishment of the California State Summer School for the Arts, the California Arts Council, State Department of Education, and the California State Summer School for the Arts Advisory Council shall report to the Legislature on or before December 31, 1983, with respect to the operation and administration of the California State Summer School for the Arts.

SEC. 2. Section 4104 of the Food and Agricultural Code is amended to read:

4104. The Legislature hereby finds and declares that there is a need for a state repository dedicated to the diverse contributions of

Afro-Americans to the history and culture of this state and the nation.

There is in the California Museum of Science and Industry the California Museum of Afro-American History and Culture.

The California Museum of Afro-American History and Culture shall be governed by a seven-member advisory board. The Governor shall appoint four such members, at least two of whom shall reside within the boundaries of the 6th Agricultural District and the Senate Rules Committee, the Speaker of the Assembly, and the Board of Directors of the California Museum of Science and Industry shall each appoint one member. The appointees of the Governor shall be appointed to four-year terms with the initial terms of appointment expiring as follows: one term expiring January 1, 1984, one term expiring January 1, 1985, one term expiring January 1, 1986, and the other term expiring January 1, 1987. The Senate Rules Committee shall appoint the Senator representing the legislative district in which the California Museum of Science and Industry is located and the Speaker of the Assembly shall appoint the Assemblyman representing the legislative district in which the California Museum of Science and Industry is located. The Senator and Assemblyman shall meet with the board and participate in its activities to the extent that such participation is not incompatible with their respective positions as Members of the Legislature.

The advisory board shall appoint an executive director, who shall be exempt from civil service, and any necessary staff to carry out the provisions of this section, who shall be subject to the State Civil Service Act (commencing with Section 18500 of the Government Code). The California Museum of Afro-American History and Culture may accept grants, contributions, and appropriations from federal, state, local, or private sources for its operation.

The California Museum of Afro-American History and Culture shall preserve, collect, and display samples of Afro-American contributions to the arts, science, religion, education, literature, entertainment, politics, sports, and history of the state and the nation. The enrichment and historical perspective of such a collection shall be made available for public use and enjoyment. The museum may contract with any institution or private nonprofit organization it deems appropriate and qualified to assist in the operation of the museum.

CHAPTER 899

An act to amend Section 5344 of, and to add Sections 5027, 5209, 5309, and 5348 to, the Food and Agricultural Code, relating to plants, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 5027 is added to the Food and Agricultural Code, to read:

5027. Unless otherwise expressly provided, a violation of any provision of this division is a misdemeanor.

SEC. 2. Section 5209 is added to the Food and Agricultural Code, to read:

5209. Any violation of a provision of this chapter is an infraction punishable by a fine of seventy-five dollars ($75) for the first offense and is a misdemeanor for a second or subsequent offense within three years of a prior conviction of a violation of a provision of this chapter.

SEC. 3. Section 5309 is added to the Food and Agricultural Code, to read:

5309. Any violation of a provision of this chapter is an infraction punishable by a fine of not more than seventy-five dollars ($75) for the first offense and is a misdemeanor for a second or subsequent offense within three years of a prior conviction of a violation of a provision of this chapter.

SEC. 4. Section 5344 of the Food and Agricultural Code is amended to read:

5344. It is unlawful for the operator of any vehicle to fail to stop the vehicle at an inspection station or upon demand of a clearly identified plant quarantine officer, or officers authorized pursuant to Section 5348 to cite persons for infractions committed pursuant to this article, for the purpose of determining whether any quarantine which is established pursuant to any provision of this division is being violated.

SEC. 5. Section 5348 is added to the Food and Agricultural Code, to read:

5348. Plant quarantine officers, and officers of the California Highway Patrol, are authorized to cite persons for infractions committed pursuant to this article.

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.

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 assure compliance with the state of emergency and implementation of the state's Mediterranean fruit fly eradication program, it is necessary that this act take effect immediately.

CHAPTER 900

An act to amend Section 42006 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 42006 of the Vehicle Code is amended to read:

42006. (a) Except as provided in subdivision (c), there may be levied a special assessment in an amount equal to one dollar ($1) for every fine and forfeiture, imposed and collected by any court which conducts a night session of the court, on all offenses involving a violation of a section of this code or any local ordinance adopted pursuant to this code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists.

(b) When a person makes a deposit of bail for an offense to which this section applies, in a case in which the person is required to appear in a court which conducts a night session, the person making the deposit shall also deposit a sufficient amount to include the assessment prescribed in this section for forfeited bail. If bail is forfeited, the amount of the assessment shall be transmitted by the clerk of the court to the county treasury for disposition as prescribed by subdivision (d).

(c) If a court conducts sessions at two or more locations, the court may do either of the following:

(1) Levy assessments only on those persons who are required to appear at the location where night sessions are held.

(2) Levy assessments on persons who have the option to appear at a location where night court sessions are held and that location is within 25 miles of the location of the court where the person is otherwise required to appear, if the court prepares and submits a report to the Legislative Analyst on or before February 1, 1986, which itemizes the additional costs of the night court session or sessions for the calendar years of 1983, 1984, and 1985, and the revenues received from the assessment levied under subdivision (a) in those calendar years.

(d) After a determination by the court of the amount of the assessment due, the clerk of the court shall collect the amount and transmit it to the county treasury to be deposited in the night court session fund, and the money in the fund shall be expended by the

county for maintaining courts in the county which have night sessions for traffic offenses.

(e) In any case where a person convicted of any offense to which this section applies is imprisoned until the fine is satisfied, the judge shall waive the penalty assessment.

CHAPTER 901

An act to amend Section 537 of the Penal Code, relating to crimes.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 537 of the Penal Code is amended to read:

537. (a) Any person who obtains any food or accommodations at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, autocamp, ski area, or public or private campground, without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, autocamp, or public or private campground by the use of any false pretense, or who, after obtaining credit, food, or accommodations, at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, autocamp, or public or private campground, absconds, or surreptitiously, or by force, menace, or threats, removes any part of his or her baggage therefrom with the intent not to pay for his or her food or accommodations is guilty of a public offense punishable as follows:

(1) If the value of the credit, food, or accommodations is four hundred dollars ($400) or less, by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for a term not exceeding six months, or both.

(2) If the value of the credit, food, or accommodations is greater than four hundred dollars ($400), by imprisonment in the county jail for a term of not more than one year, or in the state prison.

(b) Any person who uses or attempts to use ski area facilities for which payment is required without paying as required, or who resells a ski lift ticket to another when the resale is not authorized by the proprietor, is guilty of an infraction.

(c) Evidence that a person left the premises of such an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, autocamp, ski area, or public or private campground, without paying or offering to pay for such food, use of facilities, or accommodation, or that the person, without authorization from the proprietor, resold his or her ski lift ticket to another person after making use of such facilities, shall be prima facie

evidence of the following:

(1) That the person obtained such food, use of facilities or accommodations with intent to defraud the proprietor or manager.

(2) That, if, after obtaining the credit, food, or accommodations, the person absconded, or surreptitiously, or by force, menace, or threats, removed part of his or her baggage therefrom, the person did so with the intent not to pay for the credit, food, or accommodations.

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 902

An act to amend Section 40304.5 of the Vehicle Code, relating to traffic warrants.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 40304.5 of the Vehicle Code is amended to read:

40304.5. Notwithstanding any other provision of law, whenever any person is taken into custody for bail to be collected on four or fewer outstanding infraction warrants for failure to appear on a citation for a parking or traffic offense, he or she shall be provided the opportunity immediately to post bail, and he or she shall not be booked, photographed, or fingerprinted, nor shall an arrest record be made, when the amount of bail required to be paid on the warrant may be ascertained by reference to the face thereof or to a fixed schedule of bail, unless and until all of the following requirements have been exhausted:

(a) If the person has sufficient cash in his or her possession, he or she shall be given the opportunity immediately to post bail with the person in charge of the jail or his or her designee.

(b) If the person does not have sufficient cash in his or her possession, he or she shall be informed of his or her right and given the opportunity to all of the following:

(1) Make not less than three completed telephone calls to obtain bail. The person may be permitted the use of the police or sheriff department's telephone to make not less than three completed local

or collect long distance telephone calls to obtain bail. The actual identifiable costs to the department, if any, of the telephone calls may be added to the amount of bail required to be paid.

(2) Have not more than fifty cents ($0.50) of change advanced against bail, or have his or her own funds changed, in order to operate a pay telephone.

(3) Have not less than two hours in which to arrange for the deposit of bail.

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.

CHAPTER 903

An act to amend Section 5075.3 of, to add Sections 5077.6 and 5077.7 to, and to add and repeal Sections 5006.10 and 5006.11 of, the Public Resources Code, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 5006.10 is added to the Public Resources Code, to read:

5006.10. Any contract between the department and the Empire Mine Association shall contain, at a minimum, all of the following requirements:

(a) All moneys received by the association pursuant to its contract with a mine operator for the reworking of mine tailings remaining at Empire Mine State Historical Park for the extraction of precious metals may be retained by the association until July 1, 1992. Those moneys may be invested, but shall not be expended by the association.

(b) Income received by the association from the investment of those moneys may be expended by the association for the following purposes and in the following order of priority:

(1) Measures for the improvement of public safety at the park and the abatement of water pollution in Little Wolf Creek caused by toxic leachate from mine tailings.

(2) Construction of improvements and purchase of artifacts for the interpretation of mining operations and history at the park.

(3) Reimbursement to the association for its costs of conducting an interpretive program at the park. Allocation of expenditures among these purposes may be determined as a part of the contract between the department and the association.

(c) On July 1, 1992, all moneys received by the association pursuant to the contract specified in subdivision (a), and any unexpended income received from the investment of those moneys, shall be paid by the association to the director and shall be deposited in the State Parks and Recreation Fund.

(d) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1993, deletes or extends that date.

SEC. 2. Section 5006.11 is added to the Public Resources Code, to read:

5006.11. (a) If the preparation of a reclamation plan pursuant to the Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section 2710) of Division 2) is required as a condition of reworking the mine tailings remaining at Empire Mine State Historical Park, as provided in Section 5006.10, that plan may provide for the retention of a suitable quantity of reworked mine tailings for the purpose of interpreting historic mining operations at the Empire Mine.

(b) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1993, deletes or extends that date.

SEC. 3. Section 5075.3 of the Public Resources Code is amended to read:

5075.3. In specifying criteria and standards for the design and construction of trail routes and complementary facilities as provided in subdivisions (b) and (c) of Section 5071.3, the director shall include the following:

(a) The following routes shall be given priority in the allocation of funds:

(1) Routes which are in proximity or accessible to major urban areas of the state.

(2) Routes which are located on lands in public ownership.

(3) Routes which provide linkage or access to natural, scenic, historic, or recreational areas of clear statewide significance.

(4) Routes which are, or may be, the subject of agreements providing for participation of other public agencies, cooperating volunteer trail associations, or any combination of those entities, in state trail acquisition, development, or maintenance.

(b) Where feasible, trail uses may be combined on routes within the system; however, where trail use by motor vehicles is incompatible with other trail uses, separate areas and facilities should be provided.

(c) Trails should be located and managed so as to restrict trail users to established routes and to aid in effective law enforcement.

(d) Trails should be located so as to avoid severance of private property and to minimize impact on adjacent landowners and operations. The location of any trail authorized by this article shall, if the property owner so requests, be placed as nearly as physically practicable to the boundary lines of the property traversed by the

trail, as such boundary lines existed as of January 1, 1975.

(e) Insofar as possible, trails should be designed and maintained to harmonize with, and complement, established forest, agricultural, and resource management plans. No trail, or property acquisition therefor, shall interfere with a landowner's water rights or his right to access to the place of exercise of such water rights.

(f) Trails should be planned as a system and each trail segment should be part of the overall system plan.

(g) Trails should be appropriately signed to provide identification, direction, and information.

(h) Rest areas, shelters, sanitary facilities, or other conveniences should be designed and located to meet the needs of trail users, including physically handicapped persons, and to prevent intrusion into surrounding areas.

(i) The department shall erect fences along any trail when requested to do so by the owner of adjacent land, or with the consent of the owner of such land when the department determines it will be in the best interests of the users of the trail and adjoining property owners, and shall place gates in such fences when necessary to afford proper access and at each point of intersection with existing roads, trails, or at used points of access to or across such trail. The department shall maintain such fences and gates in good condition.

(j) A landowner's right to conduct agricultural, timber harvesting, or mining activities on private lands adjacent to, or in the vicinity of, a trail shall not be restricted because of the presence of the trail.

SEC. 4. Section 5077.6 is added to the Public Resources Code, to read:

5077.6. Because of its clear function as the interpretive highway of the Gold Rush, and because of outstanding efforts of public agencies and the private sector to increase accessability to physically disabled persons along parts of its route, the route commonly known as the Golden Chain located on State Highway Route 49 is hereby designated as a heritage corridor.

SEC. 5. Section 5077.7 is added to the Public Resources Code, to read:

5077.7. Because of the unique beauty and natural resources of the northern California coast, the desire of many Californians to visit the area, the heavy dependence of the area on the recreation and tourism economy, the recent improvements in access for disabled persons by state and local agencies and nonprofit groups in the area, and the recent increase in available information on access for disabled persons in the area, State Highway Route 1 from the Golden Gate Bridge to Route 101 near Leggett and State Highway Route 101 from that point to the Oregon state line is hereby designated as the Coast Highway Heritage Corridor.

SEC. 6. Any local, state, or federal agency may, in the development of the South Yuba Independence Trail Project, enter into multiple-party, revocable agreements with private landowners and cooperating volunteer trail associations which permit a

landowner to revoke use of the trail, without claim of implied dedication, if management and maintenance levels are below standards established in the agreement.

SEC. 7. (a) Notwithstanding subdivision (d) of Section 21191, the sum of one hundred thousand dollars ($100,000) is hereby appropriated from the California Environmental License Plate Fund to the Department of Parks and Recreation to be allocated as follows:

(1) The sum of fifty thousand dollars ($50,000) for expenditure during the 1982–83 fiscal year for the acquisition, at below market value, of conservation easements, nondevelopment easements, and fee title in lands needed to complete and guarantee public use of the nine-mile South Yuba Independence Trail along the historical Excelsior Mining Canal, including approximately two miles of trail.

(2) The sum of fifty thousand dollars ($50,000) for expenditure during the 1983–84 fiscal year for the purchase, at below market value, of picnicking and road access areas suitable for gold panning and swimming access for physically disabled persons at the north side of Bridgeport Covered Bridge State Historical Landmark.

(b) The expenditure of funds pursuant to this section shall be subject to all of the following conditions:

(1) The property shall be acquired pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code.

(2) The State Public Works Board has determined both of the following:

(A) That an agreement exists between the state and another public agency or between the state and a cooperating volunteer trail association for development and operation of the trails and facilities upon the lands and easements to be acquired by the state.

(B) 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 materials relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General.

SEC. 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:

This act enacts provisions which facilitate the removal of toxic substances from mine tailings at Empire Mine State Historical Park, thereby improving public safety at the park and abating water pollution in Little Wolf Creek.

This act enacts provisions relating to facilities for physically handicapped persons in the California Recreational Trails System. Also, property which would be acquired for the South Yuba Independence Trail Project with funds appropriated pursuant to this

act may be sold for other purposes if not purchased immediately.

In order to begin the removal of toxic substances from mine tailings at Empire Mine State Historical Park, and in order to ensure the acquisition of such property for the South Yuba Independence Trail Project and also to ensure that the California Recreational Trails System includes facilities to meet the needs of physically handicapped persons, at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 904

An act to amend Section 2706.1 of, and to add Section 2612 to, the Unemployment Insurance Code, relating to disability insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 2612 is added to the Unemployment Insurance Code, to read:

2612. Notwithstanding any other provision of law, except as provided in subdivision (b) of Section 2611, in determining the benefit rights of any person who cannot establish a valid claim pursuant to Section 2652 because he or she is unemployed during the normal disability base period established pursuant to Section 2610, there shall be excluded from the disability base period those quarters during which the person performed no services in employment for 60 days or more and was actively seeking work. For all quarters so excluded, there shall be substituted an equal number of quarters immediately preceding the commencement of the normal disability base period. Benefit rights under this section shall terminate for any disability benefit period that begins when the substitution quarters no longer contain sufficient wages to establish a valid claim under Section 2652.

SEC. 2. Section 2706.1 of the Unemployment Insurance Code is amended to read:

2706.1. A first claim, accompanied by a certificate on a form furnished by the department to the claimant, shall be filed not later than the 41st consecutive day following the first compensable day of unemployment and disability with respect to which the claim is made for benefits, which time shall be extended by the department upon a showing of good cause. If a first claim is not complete, the claim form shall be returned to the claimant for completion and it shall be completed and returned not later than the 10th consecutive day after the date it was mailed by the department to the claimant,

except that such time shall be extended by the department upon a showing of good cause.

SEC. 3. The provisions of law in effect prior to this act shall continue to be applicable with respect to periods of disability commencing prior to the effective date of this act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Experience has shown that the current time limit for filing an initial state disability insurance claim does not adequately protect the filing rights of many claimants. In order to extend the current time limit and thereby prevent any further loss of benefits to covered workers, and in order to alleviate the effects of extreme unemployment as soon as possible, it is necessary that this act go into effect immediately.

CHAPTER 905

An act to amend Sections 11165 and 11166 of the Penal Code, relating to child abuse.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual assault" means conduct in violation of the following sections of the Penal Code: Sections 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), and 647a (child molestation).

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation

such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, or shelter.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16508 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means situations of physical injury on a child which is inflicted by other than accidental means, or of sexual assault or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensed day care worker; an administrator of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with

Section 500) of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 2. Section 11166 of the Penal Code is amended to read:

11166. (a) Except as provided in subdivision (b), any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse.

(b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation, for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(d) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by such selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this article.

(g) A county probation or welfare department shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case, and to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse as defined in Section 11165, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department and the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse reported to it, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the

county welfare department. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

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 906

An act to amend Section 23384 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 23384 of the Business and Professions Code is amended to read:

23384. Any licensed beer manufacturer, wine grower, brandy manufacturer, rectifier, or wholesaler may, in addition to the other privileges exercised under his or her license and in accordance with rules prescribed by the department sell tax-paid alcoholic beverages mentioned in the license of the licensee to nonlicensees having a fixed place of business or residence upon territory within this State which is maintained by the United States Government as a military or naval reservation or national park or veterans homes, and veterans homes maintained by the State of California, and Indian country or land dedicated for use by the Indians.

CHAPTER 907

An act to add and repeal Sections 35176.5 and 35176.6 of the Education Code, relating to schools.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 35176.5 is added to the Education Code, to read:

35176.5. The governing board of every school district shall adopt policies regarding the designation of employee smoking areas or lounges at each school site. These policies may include, but not be limited to, the establishment of procedures for the determination of employee smoking areas by a majority vote of the teachers and other school employees at each school.

This section shall remain in effect only until January 1, 1989, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends such date.

SEC. 2. Section 35176.6 is added to the Education Code, to read:

35176.6. A teacher or other school employee shall not smoke on the grounds of any public school, except in the areas designated for employee smoking by the governing board of the district.

This section shall remain in effect only until January 1, 1989, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends such date.

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 908

An act to amend Section 29124 of the Government Code, relating to counties.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 29124 of the Government Code is amended to read:

29124. If at the beginning of any fiscal year, the appropriations applicable to that year have not been finally determined and adopted, the auditor shall approve payments for the support of the various budget units in accordance with the following authorizations which shall have progressive application:

(a) The several amounts set forth in the proposed budget for the objects and purposes therein specified, except for expenditures for

fixed assets and for new permanent employee positions, are deemed appropriated until the adoption of the final budget. For the purposes of this subdivision, the words "new permanent employee positions" do not include any employee position created in lieu of an employee position which is abolished.

(b) If the proposed budget has not been approved by the board, the amounts deemed appropriated shall be based on the budget of the preceding year, excluding fixed assets.

(c) Notwithstanding subdivisions (a) and (b), expenditures for the construction, improvement, maintenance or repair of real property may be made prior to adoption of the final budget provided that such expenditures were budgeted and unencumbered in the prior fiscal year.

CHAPTER 909

An act to amend Section 700 of the Financial Code, relating to banks.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 700 of the Financial Code is amended to read:

700. Unless the context otherwise requires, in this article:

(a) "Bank" means a bank organized under the laws of this state.

(b) "Control" means possession, direct or indirect, of the power:

(1) To vote 25 percent or more of any class of the voting securities issued by a person; or

(2) To direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or nonmanagement services), or otherwise; provided, however, that no individual shall be deemed to control a person solely on account of being a director, officer, or employee of such person.

For purposes of paragraph (2) of this subdivision, a person who, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the then outstanding voting securities issued by another person is presumed to control such other person.

For purposes of this article, the superintendent may determine whether a person in fact controls another person.

(c) "Controlling person" means a person who, directly or indirectly, controls a bank.

(d) "Person" means an individual, a corporation, an association, a syndicate, a partnership, a business trust, an estate, a trust, or an

organization of any kind, or any combination of any of the foregoing acting in concert.

(e) "Shareholder" means:

(1) In the case of a corporation, a holder of a share of any class or series.

(2) In the case of a nonprofit or charitable corporation, an unincorporated association, or a syndicate, a member.

(3) In the case of a partnership, a partner.

(4) In the case of a business trust, an estate, or a trust, a holder of a beneficial interest.

(5) In the case of an organization of any other kind, a holder of an ownership interest.

CHAPTER 910

An act to amend Section 44254 of the Education Code, relating to teacher preparation.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 44254 of the Education Code is amended to read:

44254. Emergency credentials may be issued in accordance with regulations adopted by the commission.

The terms, reasons, and justification for the issuance of such credentials shall be regularly reported to the Legislature, as well as their number, kind, the number of emergency credentials issued to individuals who do not have baccalaureate degrees and other pertinent information. Emergency credentials shall only be authorized when insufficient certified teachers are available.

An emergency credential may not be issued unless the holder has received a baccalaureate degree from a regionally accredited institution.

In the event that a school district or a county office of education, after having solicited and reviewed applications for teaching positions, finds that there is an insufficient number of candidates for emergency credentials who hold bacculaureate degrees, the governing board of the district or the county board of education may, until January 1, 1985, make a declaration of this insufficiency. The declaration shall be made in the form of a motion adopted by the governing board of the district or the county board of education at a regularly scheduled meeting of the governing board of the district or the county board of education and shall be entered into the minutes of the meeting. The commission may issue emergency credentials for service in districts and county offices of education

adopting this declaration to individuals who have completed at least 90 units of college level coursework at an accredited institution.

Emergency credentials for pupil personnel services shall not be valid for the purpose of determining pupil eligibility for placement in special education classes or programs.

With the exception of this chapter, any reference in any law or regulation to a "provisional credential" shall be deemed to mean an "emergency credential."

CHAPTER 911

An act to amend Section 62 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) Any transfer between coowners which results in a change in the method of holding title to the real property without changing the proportional interests of the coowners, such as a partition of a tenancy in common, or any transfer of title between an individual and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, a trust to a cotenancy, or an individual to a legal entity, which results solely in a change in the method of holding title and in which the proportional interests by the transferors and transferees, whether represented by stock, partnership interest, or otherwise, remain the same after transfer.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse, or by both into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision

(d) of Section 62 and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after such creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage provided such mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or such housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of such person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975, to March 1, 1981, between coowners in any property which was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the entire period of the coownership, notwithstanding any other provision of this chapter. Any such transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of such revaluation with respect to the 1980–81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located provided it is filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980–81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, and a public benefit corporation, or any combination thereof (including any transfer

from one such entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(*l*) Any transfer, which would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit which was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

SEC. 1.5. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) (1) Any transfer between coowners which results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common.

(2) Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, which results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of subdivision (b) or Section 64.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse, or by both, into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision

(d) of Section 62 and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after the creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land and have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage, provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975 to March 1, 1981, between coowners in any property which was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980–81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980–81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of the aforementioned

corporations, or any combination thereof (including any transfer from one such entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(*l*) Any transfer, which would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit which was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

SEC. 2. The provisions of this act shall be effective for the 1982–83 fiscal year and years thereafter. It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values of the 1982–83 fiscal year, and shall apply to any change in ownership occurring on or after March 1, 1975. No escape assessments shall be levied and no refund shall be made for any years prior to the 1982–83 fiscal year for any increases or decreases in value made for the 1982–83 fiscal year or fiscal years thereafter as the result of the enactment of this act.

SEC. 2.5. It is the intent of the Legislature, if this bill and Assembly Bill 3382 are both chaptered and become effective January 1, 1983, both bills amend Section 62 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill 3382, that the amendments to Section 62 proposed by both bills be given effect and incorporated in Section 62 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 3382 are both chaptered and become effective January 1, 1983, both amend Section 62, and this bill is chaptered after Assembly Bill 3382, in which case Section 1 of this act shall not become operative.

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 912

An act to add Section 21263.9 to the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 21263.9 is added to the Government Code, to read:

21263.9. For the purpose of Sections 21364, 21365.5, 21365.6 and Article 6 (commencing with Section 21380) of this chapter:

(a) Any surviving spouse receiving an allowance thereunder on January 1, 1983, may irrevocably elect between March 1, 1983, and June 1, 1983, to receive a reduced lifetime allowance which is the actuarial equivalent of the allowance otherwise payable.

(b) Any surviving spouse of a member whose death occurs on or after January 1, 1983, may irrevocably elect within 10 months of the death of the member to receive a reduced lifetime allowance which is the actuarial equivalent of the benefit otherwise payable.

SEC. 2. The sum of twenty thousand dollars ($20,000) is hereby appropriated from the Public Employees' Retirement Fund to the Public Employees' Retirement System for expenditure to pay the costs of administering this act.

CHAPTER 913

An act to add Section 1182.8 to the Labor Code, relating to wages, hours, and conditions of employment.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 1182.8 is added to the Labor Code, to read:

1182.8. No employer shall be in violation of any provision of any applicable order of the Industrial Welfare Commission relating to credit or charges for lodging for charging, pursuant to a voluntary written agreement, a resident apartment manager up to two-thirds of the fair market rental value of the apartment supplied to the manager, if no credit for the apartment is used to meet the employer's minimum wage obligation to the manager.

CHAPTER 914

An act to add Sections 307.1 and 347.1 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 307.1 is added to the Streets and Highways Code, to read:

307.1. (a) Route 7 shall also include that portion of the freeway between Route 1 and the northern end of Harbor Scenic Drive, that portion of Harbor Scenic Drive to Ocean Boulevard, that portion of Ocean Boulevard west of its intersection with Harbor Scenic Drive to its junction with Seaside Boulevard, and that portion of Seaside Boulevard from the junction with Ocean Boulevard to Route 47.

(b) Subdivision (a) shall not become operative, and this section shall be repealed on January 1, 1985, unless the commission approves, not later than December 31, 1984, a financial plan, which is submitted to them by the Los Angeles County Transportation Commission not later than January 1, 1984.

(c) The financial plan shall be prepared in cooperation with the department and shall include, but not be limited to, a cost estimate and the source of funding to make the route changes in subdivision (a) and any proposed improvements.

SEC. 2. Section 347.1 is added to the Streets and Highways Code, to read:

347.1. (a) Route 47 shall also include that portion of Henry Ford Avenue from Route 47 to Alameda Street and that portion of Alameda Street from Henry Ford Avenue to Route 91.

Route 47 shall not include that portion of the adopted route from Route 1 to Willow Street and that portion of the adopted alignment from Willow Street to Route 405.

(b) Subdivision (a) shall not become operative, and this section shall be repealed on January 1, 1985, unless the commission approves, not later than December 31, 1984, a financial plan, which is submitted to them by the Los Angeles County Transportation Commission not later than January 1, 1984.

(c) The financial plan shall be prepared in cooperation with the department and include, but not be limited to, a cost estimate and the source of funding to make the route changes in subdivision (a) and any proposed improvements.

CHAPTER 915

An act to add Chapter 3.5 (commencing with Section 24385) to Division 20 of the Health and Safety Code, relating to beer dispensing equipment.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Chapter 3.5 (commencing with Section 24385) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 3.5. BEER DISPENSING EQUIPMENT

24385. As used in this chapter, unless the context requires otherwise:

(a) "Beer dispensing equipment" means any machine, tool, or implement used in the operation of dispensing beer.

(b) "Commercial establishment" means any owner or operator of a business which uses beer dispensing equipment.

(c) "Retail distributor" means any person engaged in the manufacture, rental, lease, sale, or distribution of beer dispensing equipment.

24386. On or after January 1, 1984, a visually inspectable without disassembly, pressure-relief rupture apparatus or other pressure relief device which performs equivalently shall be required on beer dispensing equipment manufactured, rented, leased, sold, or distributed which uses an external source of pressure, other than hand pumping. This apparatus is not required to be placed directly on the keg itself. On or after January 1, 1984, a warning shall be clearly displayed on or securely attached to all beer kegs. The word "WARNING", "ATTENTION", or other suitable wording shall appear in capital letters. The remainder of the warning shall read substantially as follows: "This keg will rupture and may cause injury if overpressured with compressed air or CO_2. Tapping system and pressure regulator should be equipped with a pressure-relief (blowoff) device. If you are not familiar with tapping equipment, consult your retailer or the local beer distributor."

24387. Any commercial establishment or retail distributor which violates the provisions of this chapter shall be subject to a civil penalty not to exceed five hundred dollars ($500) for each violation.

CHAPTER 916

An act to amend Sections 19576 and 19578 of the Government Code, relating to state civil service disciplinary actions.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 19576 of the Government Code is amended to read:

19576. Whenever an answer is filed by an employee who has been suspended without pay for five days or less or who has received a formal reprimand or up to a one-step reduction in pay for four months or less the board or its authorized representative shall make an investigation with or without a hearing as it deems necessary; however, in the event an employee receives one of these actions under subdivision (r) of Section 19572 for behavior or acts outside of duty hours, he shall, if he files an answer to the action, be afforded a hearing; or if he receives one of the cited actions in more than three instances in any 12-month period, he shall upon each additional action within the same 12-month period be afforded a hearing if he files an answer to the action.

If the provisions of this section concerning whether a hearing should be held are in conflict with the provisions of a memorandum of understanding reached pursuant to the State Employer-Employee Relations Act (SEERA), commencing with Section 3512, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 2. Section 19578 of the Government Code is amended to read:

19578. Except as provided in Section 19576, whenever an answer is filed to an adverse action, the board or its authorized representative shall within a reasonable time hold a hearing. The board shall notify the parties of the time and place of the hearing. Such hearing shall be conducted in accordance with the provisions of Section 11513 of the Government Code, except that the employee and other persons may be examined as provided in Section 19580, and the parties may submit all proper and competent evidence against or in support of the causes.

CHAPTER 917

An act to amend Section 987 of, and to amend, repeal and add Sections 1239 and 1240.1 of, and to add Section 190.7 to, the Penal Code, relating to criminal procedure.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 190.7 is added to the Penal Code, to read:

190.7. The "entire record" referred to in Section 190.6 shall include, but not be limited to, the following:

(a) The normal and additional record prescribed in the rules adopted by the Judicial Council pertaining to an appeal taken by the defendant from a judgment of conviction.

(b) A copy of any other paper or record on file or lodged with the superior court and a transcript of any other oral proceeding reported in the superior court pertaining to the trial of the cause.

Nothing contained in this section shall preclude a court from ordering that the entire record include municipal court or settlement proceedings pertaining to the case.

Notwithstanding this section, the Judicial Council may adopt rules, not inconsistent with the purpose of Section 190.6, specifically pertaining to the content, preparation and certification of the record on appeal when a judgment of death has been pronounced.

SEC. 2. Section 987 of the Penal Code is amended to read:

987. (a) In a noncapital case, if the defendant appears for arraignment without counsel, he shall be informed by the court that it is his right to have counsel before being arraigned, and shall be asked if he desires the assistance of counsel. If he desires and is unable to employ counsel the court shall assign counsel to defend him.

(b) In a capital case, if the defendant appears for arraignment without counsel, the court shall inform him that he must be represented by counsel at all stages of the preliminary and trial proceedings and that such representation will be at his expense if he is able to employ counsel or at public expense if he is unable to employ counsel, inquire of him whether he is able to employ counsel and, if so, whether he desires to employ counsel of his choice or to have counsel assigned to him, and allow him a reasonable time to send for his chosen or assigned counsel. If the defendant is unable to employ counsel, the court shall assign counsel to defend him. If the defendant is able to employ counsel and either refuses to employ counsel or appears without counsel after having had a reasonable time to employ counsel, the court shall assign counsel to him.

The court shall at the first opportunity inform the defendant's trial counsel, whether retained by the defendant or court-appointed, of the additional duties imposed upon trial counsel in any capital case

as set forth in paragraph (1) of subdivision (b) of Section 1240.1.

(c) In order to assist the court in determining whether a defendant is able to employ counsel in any case, the court may require a defendant to file a financial statement under penalty of perjury. The financial statement shall be confidential and privileged and shall not be admissible in evidence in any criminal proceeding except the prosecution of an alleged offense of perjury based upon false material contained in the financial statement. The financial statement shall be made available to the prosecution only for purposes of investigation of an alleged offense of perjury based upon false material contained in the financial statement at the conclusion of the proceedings for which such financial statement was required to be submitted. The financial statement shall not be confidential and privileged in a proceeding under Section 987.8.

SEC. 3. Section 1239 of the Penal Code is amended to read:

1239. (a) Where an appeal lies on behalf of the defendant or the people, it may be taken by the defendant or his counsel, or by counsel for the people, in the manner provided in rules adopted by the Judicial Council.

(b) When upon any plea a judgment of death is rendered, an appeal is automatically taken by the defendant without any action by him or his counsel. The defendant's trial counsel, whether retained by the defendant or court-appointed, shall continue to represent the defendant until completing the additional duties set forth in paragraph (1) of subdivision (b) of Section 1240.1.

SEC. 4. Section 1239 is added to the Penal Code, to read:

1239. (a) Where an appeal lies on behalf of the defendant or the people, it may be taken by the defendant or his counsel, or by counsel for the people, in the manner provided in rules adopted by the Judicial Council.

(b) When upon any plea a judgment of death is rendered, an appeal is automatically taken by the defendant without any action by him or his counsel.

SEC. 5. Section 1240.1 of the Penal Code, is amended to read:

1240.1. (a) (1) In any noncapital criminal, juvenile court, or civil commitment case wherein the defendant would be entitled to the appointment of counsel on appeal if indigent, it shall be the duty of the attorney who represented the person at trial to provide counsel and advice as to whether arguably meritorious grounds exist for reversal or modification of the judgment on appeal. The attorney shall admonish the defendant that he is not able to provide advice concerning his own competency, and that the State Public Defender or other counsel should be consulted for advice as to whether an issue regarding the competency of counsel should be raised on appeal. The trial court may require trial counsel to certify that he has counselled the defendant as to whether arguable meritorious grounds for appeal exist at the time a notice of appeal is filed. Nothing in this section shall be construed to prevent any person having a right to appeal from doing so.

(2) It shall be the duty of every attorney representing an indigent defendant in any noncapital criminal, juvenile court, or civil commitment case to execute and file on his client's behalf a timely notice of appeal when such attorney is of the opinion that arguably meritorious grounds exist for a reversal or modification of the judgment or orders to be appealed from, and where, in the attorney's judgment, it is in the defendant's interest to pursue such relief as may be available to him on appeal; or when directed to do so by a defendant having a right to appeal.

With the notice of appeal the attorney shall file a brief statement of the points to be raised on appeal and a designation of any document, paper, pleading, or transcript of oral proceedings necessary to properly present such points on appeal when such document, paper, pleading or transcript of oral proceedings would not be included in the normal record on appeal according to the applicable provisions of the California Rules of Court. The executing of such notice of appeal by the defendant's attorney shall not constitute an undertaking to represent the defendant on appeal unless such undertaking is expressly stated in the notice of appeal.

If the defendant was represented by appointed counsel on the trial level, or if it appears that the defendant will request the appointment of counsel on appeal by reason of indigency, the trial attorney shall also assist the defendant in preparing and submitting a motion for the appointment of counsel and any supporting declaration or affidavit as to the defendant's financial condition. These documents shall be filed with the trial court at the time of filing a notice of appeal, and shall be transmitted by the clerk of such trial court to the clerk of the appellate court within three judicial days of their receipt. The appellate court shall act upon such motion without unnecessary delay. An attorney's failure to file a motion for the appointment of counsel with the notice of appeal shall not foreclose the defendant from filing a motion at any time it becomes known to him that the attorney has failed to do so, or at any time he shall become indigent if he was not previously indigent.

(3) The State Public Defender shall, at the request of any attorney representing a prospective indigent appellant or at the request of the prospective indigent appellant himself, provide counsel and advice to such prospective indigent appellant or attorney as to whether arguably meritorious grounds exist on which the judgment or order to be appealed from would be reversed or modified on appeal.

(4) The failure of a trial attorney to perform any duty prescribed in this section, assign any particular point or error in the notice of appeal, or designate any particular thing for inclusion in the record on appeal shall not foreclose any defendant from filing a notice of appeal on his own behalf or from raising any point or argument on appeal; nor shall it foreclose the defendant or his counsel on appeal from requesting the augmentation or correction of the record on appeal in the reviewing court.

(b) (1) In order to expedite certification of the entire record on

appeal in all capital cases, defendant's trial counsel, whether retained by the defendant or court-appointed, shall continue to represent the defendant until the entire record on the automatic appeal is certified. In any capital case, trial counsel shall check that the entire record on appeal has been prepared, and shall check for errors or omissions in that record and request any corrections thereto within the time provided by rules adopted by the Judicial Council.

(2) The duties imposed on trial counsel in paragraph (1) of this subdivision shall not foreclose the defendant's appellate counsel from requesting additions or corrections to the entire record on appeal in either the trial court or the Supreme Court.

SEC. 6. Section 1240.1 is added to the Penal Code, to read:

1240.1. (a) In any criminal, juvenile court, or civil commitment case wherein the defendant would be entitled to the appointment of counsel on appeal if indigent, it shall be the duty of the attorney who represented the person at trial to provide counsel and advice as to whether arguably meritorious grounds exist for reversal or modification of the judgment on appeal. The attorney shall admonish the defendant that he is not able to provide advice concerning his own competency, and that the State Public Defender or other counsel should be consulted for advice as to whether an issue regarding the competency of counsel should be raised on appeal. The trial court may require trial counsel to certify that he has counselled the defendant as to whether arguably meritorious grounds for appeal exist at the time a notice of appeal is filed. Nothing in this section shall be construed to prevent any person having a right to appeal from doing so.

(b) It shall be the duty of every attorney representing an indigent defendant in any criminal, juvenile court, or civil commitment case to execute and file on his client's behalf a timely notice of appeal when such attorney is of the opinion that arguably meritorious grounds exist for a reversal or modification of the judgment or orders to be appealed from, and where, in the attorney's judgment, it is in the defendant's interest to pursue such relief as may be available to him on appeal; or when directed to do so by a defendant having a right to appeal.

With the notice of appeal the attorney shall file a brief statement of the points to be raised on appeal and a designation of any document, paper, pleading, or transcript of oral proceedings necessary to properly present such points on appeal when such document, paper, pleading or transcript of oral proceedings would not be included in the normal record on appeal according to the applicable provisions of the California Rules of Court. The executing of such notice of appeal by the defendant's attorney shall not constitute an undertaking to represent the defendant on appeal unless such undertaking is expressly stated in the notice of appeal.

If the defendant was represented by appointed counsel on the trial level, or if it appears that the defendant will request the appointment of counsel on appeal by reason of indigency, the trial attorney shall

also assist the defendant in preparing and submitting a motion for the appointment of counsel and any supporting declaration or affidavit as to the defendant's financial condition. These documents shall be filed with the trial court at the time of filing a notice of appeal, and shall be transmitted by the clerk of such trial court to the clerk of the appellate court within three judicial days of their receipt. The appellate court shall act upon such motion without unnecessary delay. An attorney's failure to file a motion for the appointment of counsel with the notice of appeal shall not foreclose the defendant from filing a motion at any time it becomes known to him that the attorney has failed to do so, or at any time he shall become indigent if he was not previously indigent.

(c) The State Public Defender shall, at the request of any attorney representing a prospective indigent appellant or at the request of the prospective indigent appellant himself, provide counsel and advice to such prospective indigent appellant or attorney as to whether arguably meritorious grounds exist on which the judgment or order to be appealed from would be reversed or modified on appeal.

(d) The failure of a trial attorney to (1) perform any duty prescribed in this section, (2) assign any particular point or error in the notice of appeal, or (3) designate any particular thing for inclusion in the record on appeal shall not foreclose any defendant from filing a notice of appeal on his own behalf or from raising any point or argument on appeal; nor shall it foreclose the defendant or his counsel on appeal from requesting the augmentation or correction of the record on appeal in the reviewing court.

SEC. 6.5. Any savings of funds realized by the Office of the Attorney General or the Office of the State Public Defender as a result of this act, as determined by the Department of Finance, shall, from funds appropriated to those offices for the 1982–83 fiscal year, be reverted to the unappropriated balance of the General Fund by the Controller upon notice by the Department of Finance.

SEC. 7. Sections 3 and 5 of this act shall remain in effect only until January 1, 1989, and as of such date are repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends such date. Sections 4 and 6 of this act shall become operative January 1, 1989.

SEC. 8. 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 918

An act to amend Section 23919 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 23919 of the Education Code is amended to read:

23919. Any retirant may be employed by a school district or other employing agency, except as provided in Sections 45134 and 88033, and earn not more than five thousand dollars ($5,000), in any one school year and the rate of pay for such employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties. The employment shall not operate to reinstate the retirant as a member of this system, or to terminate or suspend his or her retirement allowance, and no deduction shall be made from his or her salary as contributions to this system.

The maximum amount earnable under this section shall be adjusted by the board on July 1, 1983, and on each July 1, thereafter, by 50 percent of the annual amount of increase in All Urban California Consumer Price Index using December 1980 as the base.

CHAPTER 919

An act to amend Section 4007 of, and to repeal and add Article 1 (commencing with Section 11150) of Chapter 2 of Title 1 of Part 4 of, the Penal Code, relating to prisoners.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 4007 of the Penal Code is amended to read:

4007. When there is no jail in the county, or when the jail becomes unfit or unsafe for the confinement of prisoners, the judge of the superior court may, by a written order filed with the county clerk, designate the jail of a contiguous county for the confinement of the prisoners of his county, or of any of them, and may at any time modify or vacate such order.

When there are any reasonable grounds to believe that a prisoner may be forcibly removed from a county jail the sheriff may remove such prisoner to any California state prison for safekeeping and it is

hereby made the duty of the warden of such prison to accept and detain such prisoner in his custody until his removal is ordered by the superior court of the county from which he was delivered. Immediately upon receiving such prisoner the warden shall advise the Director of Corrections of that fact in writing.

When a county prisoner requires medical treatment necessitating hospitalization which cannot be provided at the county jail or county hospital because of lack of adequate detention facilities, and when, because of his past or present behavior, such prisoner presents a serious custodial problem, with the consent of the Director of Corrections, the judge of the superior court may, upon request of the county sheriff, by a written order filed with the county clerk, designate, for the confinement of such prisoner, the nearest prison or correctional facility of this state which would be able to provide the necessary medical treatment and secure confinement of such prisoner, and may at any time modify or vacate such order. The rate of compensation for such medical treatment and confinement within a California state prison or correctional facility shall be established by the Department of Corrections of this state and shall be a charge against the county making the request for such treatment and confinement.

When there are any reasonable grounds to believe that there are prisoners in a county jail who are acting in concert and are likely to be a threat to other persons in the facility or are likely to cause substantial damage to the facility, with the consent of the Director of Corrections, the judge of the superior court may, upon the request of the county sheriff, by written order filed with the county clerk, designate for the confinement of such persons the nearest state prison or correctional facility of the state which would, subject to space available, be able to secure confinement of such prisoners. The court shall immediately calendar the matter for a hearing to determine if the order shall continue or be rescinded. Such hearing shall be held within 48 hours of the initial order or the next judicial day, whichever occurs later. At such hearing, the prisoner shall be entitled to be present and to be represented by counsel. The court may at any time modify or vacate such order. The rate of compensation for such confinement within a California state prison or correctional facility shall be established by the Department of Corrections and shall be a charge against the county making the request for such confinement.

SEC. 2. Article 1 (commencing with Section 11150) of Chapter 2 of Title 1 of Part 4 of the Penal Code is repealed.

SEC. 3. Article 1 (commencing with Section 11150) is added to Chapter 2 of Title 1 of Part 4 of the Penal Code, to read:

Article 1. Release of Persons Convicted of Arson

11150. Prior to the release of a person convicted of arson from an institution under the jurisdiction of the Department of Corrections,

the Director of Corrections shall notify in writing the State Fire Marshal and all police departments and the sheriff in the county in which the person was convicted and, if known, in the county in which he is to reside. The notice shall state the name of the person to be released, the county in which he was convicted and, if known, the county in which he will reside.

11151. Within five days after release of a person convicted of arson from an institution under the jurisdiction of the Department of Mental Hygiene, the Director of Mental Hygiene shall send the notice provided in Section 11150.

11152. Upon receipt of a notice as provided in Section 11150 or 11151, the State Fire Marshal shall notify all regularly organized fire departments in the county in which the person was convicted and, if known, in the county in which he is to reside.

CHAPTER 920

An act to add Section 84309 to the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 84309 is added to the Government Code, to read:

84309. (a) No person shall receive or personally deliver or attempt to deliver a contribution in the State Capitol, in any state office building, or in any office for which the state pays the majority of the rent other than a legislative district office.

(b) For purposes of this section:

(1) "Personally deliver" means delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary.

(2) "Receive" includes the receipt of a campaign contribution delivered in 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.

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 921

An act to amend Section 1141.11 of the Code of Civil Procedure, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 1141.11 of the Code of Civil Procedure is amended to read:

1141.11. (a) In each superior court with 10 or more judges, all at-issue civil actions pending on or filed after the operative date of this chapter shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(b) In each superior court with less than 10 judges, the court may provide by local rule, when it determines that it is in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable. In the Superior Court of Sonoma County all at-issue civil actions pending between October 1, 1979, and October 1, 1983, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(c) In each municipal court district, the municipal court district may provide by local rule, when it is determined to be in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter in such judicial district, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter. The provisions of this section shall not apply to any action maintained pursuant to Section 1781 of the Civil Code or Section 116.2 or 1161 of this code.

(d) The provisions of this chapter shall not apply to those actions filed in a superior or municipal court which has been selected pursuant to Section 1823.1 and is participating in a pilot project pursuant to Title 1 (commencing with Section 1823) of Part 3.5;

provided, however, that any superior or municipal court may provide by local rule that the provisions of this chapter shall apply to actions pending on or filed after July 1, 1979. Any action filed in such court after the conclusion of the pilot project shall be subject to the provisions of this chapter.

(e) In the Counties of Los Angeles and San Bernardino, actions in which the amount in controversy does not exceed twenty-five thousand dollars ($25,000) shall be submitted to arbitration.

SEC. 2. The provisions of subdivision (e) of Section 1141.11 of the Code of Civil Procedure, as amended by Section 1 of this act, shall be applicable to actions pending on or filed after January 1, 1982.

SEC. 2.5. 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.

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 restore and continue the judicial arbitration program for Los Angeles and San Bernardino Counties without interruption, it is necessary that this act take effect immediately.

CHAPTER 922

An act to amend Sections 132a, 139.5, 3600, 3601, 3602, 4453, 4453.1, 4460, 4553, 4553.1, 4702, 5410, and 5803 of, and to add Sections 3202.5, 4558, and 5405.5 to, the Labor Code, relating to workers' compensation.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 11003.4 of the Business and Professions Code is amended to read:

11003.4. (a) A "limited-equity housing cooperative" is a corporation which meets the criteria of Section 11003.2 and which also meets the criteria of Section 33007.5 of the Health and Safety Code. Except as provided in subdivision (b), a limited-equity housing cooperative shall be subject to all the requirements of this chapter pertaining to stock cooperatives.

(b) A limited-equity housing cooperative shall be exempt from the requirements of this chapter if the limited-equity housing cooperative complies with all the following conditions:

(1) The United States Department of Housing and Urban Development, the Farmers Home Administration, the National Consumers Cooperative Bank, the California Housing Finance Agency, or the State Department of Housing and Community Development, alone or in any combination with each other, or with the city, county, or redevelopment agency in which the cooperative is located, directly finances or subsidizes at least 50 percent of the total development cost; or, the real property to be occupied by the cooperative was sold by the State Department of Transportation for the development of the cooperative and has a regulatory agreement approved by the State Department subject to the increased compensation and costs provided by paragraph (1).

(3) Any employer who discharges, or threatens to discharge, or in any manner discriminates against any employee because the employee testified or made known his or her intentions to testify in another employee's case before the appeals board, is guilty of a misdemeanor, and the employee shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer.

(4) Any insurance carrier who advises, directs, or threatens an insured under penalty of cancellation or a raise in premium or for any other reason, to discharge or in any manner discriminate against an employee because the employee testified or made known his or her intentions to testify in another employee's case before the appeals board, is guilty of a misdemeanor.

Proceedings for increased compensation as provided in paragraph (1), or for reinstatement and reimbursement for lost wages and work benefits, are to be instituted by filing an appropriate petition with the appeals board, but these proceedings may not be commenced more than one year from the discriminatory act or date of termination of the employee. The appeals board is vested with full power, authority, and jurisdiction to try and determine finally all the matters specified in this section subject only to judicial review, except that the appeals board shall have no jurisdiction to try and determine a misdemeanor charge. The appeals board may refer and any worker may complain of suspected violations of the criminal misdemeanor provisions of this section to the Division of Labor Standards Enforcement, or directly to the office of the public prosecutor.

SEC. 2. Section 139.5 of the Labor Code is amended to read:

139.5. (a) The administrative director shall establish within the Division of Industrial Accidents a rehabilitation unit, which shall include appropriate professional staff, and which shall have all of the following duties:

(1) To foster, review, and approve rehabilitation plans developed by a qualified rehabilitation representative of the employer, insurance carrier, state agency, or employee.

(2) To adopt rules and regulations which would expedite and facilitate the identification, notification, and referral of industrially

injured employees to rehabilitation services.

(3) To coordinate and enforce the implementation of rehabilitation plans.

(b) The salaries of the personnel of the rehabilitation unit shall be fixed by the State Personnel Board.

(c) When a qualified injured worker chooses to enroll in a rehabilitation program, he or she shall continue to receive temporary disability indemnity payments, plus additional living expenses necessitated by the rehabilitation program, together with all reasonable and necessary vocational training, at the expense of the employer or the insurance carrier, as the case may be.

(d) No provision of this section nor of any rule, regulation, or rehabilitation plan developed or promulgated under this section nor any benefit provided pursuant to this section shall apply to any injured employee whose injury occurred prior to January 1, 1975. Nothing in this section shall affect any plan, benefit, or program authorized by this section as added by Chapter 1513 of the Statutes of 1965 or as amended by Chapter 83 of the Statutes of 1972.

(e) The time within which an employee may request vocational rehabilitation benefits is set forth in Sections 5405.5, 5410, and 5803.

SEC. 3. Section 3202.5 is added to the Labor Code, to read:

3202.5. Nothing contained in Section 3202 shall be construed as relieving a party from meeting the evidentiary burden of proof by a preponderance of the evidence. "Preponderance of the evidence" means such evidence as, when weighed with that opposed to it, has more convincing force and the greater probability of truth. When weighing the evidence, the test is not the relative number of witnesses, but the relative convincing force of the evidence.

SEC. 4. Section 3600 of the Labor Code is amended to read:

3600. (a) Liability for the compensation provided by this division, in lieu of any other liability whatsoever to any person except as otherwise specifically provided in Sections 3602, 3706, and 4558, shall, without regard to negligence, exist against an employer for any injury sustained by his or her employees arising out of and in the course of the employment and for the death of any employee if the injury proximately causes death, in those cases where the following conditions of compensation concur:

(1) Where, at the time of the injury, both the employer and the employee are subject to the compensation provisions of this division.

(2) Where, at the time of the injury, the employee is performing service growing out of and incidental to his or her employment and is acting within the course of his or her employment.

(3) Where the injury is proximately caused by the employment, either with or without negligence.

(4) Where the injury is not caused by the intoxication of the injured employee.

(5) Where the injury is not intentionally self-inflicted.

(6) Where the employee has not willfully and deliberately caused his or her own death.

(7) Where the injury does not arise out of an altercation in which the injured employee is the initial physical aggressor.

(8) Where the injury does not arise out of voluntary participation in any off-duty recreational, social, or athletic activity not constituting part of the employee's work-related duties, except where these activities are a reasonable expectancy of, or are expressly or impliedly required by, the employment. The administrative director shall promulgate reasonable rules and regulations requiring employers to post and keep posted in a conspicuous place or places a notice advising employees of the provisions of this subdivision. Failure of the employer to post such a notice shall not constitute an expression of intent to waive the provisions of this subdivision.

(b) Where an employee, or his or her dependents, receives the compensation provided by this division and secures a judgment for, or settlement of, civil damages pursuant to those specific exemptions to the employee's exclusive remedy set forth in subdivision (b) of Section 3602 and Section 4558, such compensation as is paid under this division shall be credited against the judgment or settlement, and the employer shall be relieved from the obligation to pay further compensation to, or on behalf of, the employee or his or her dependents up to the net amount of the judgment or settlement received by the employee or his or her heirs, or such portion of the judgment as has been satisfied.

SEC. 5. Section 3601 of the Labor Code is amended to read:

3601. (a) Where the conditions of compensation set forth in Section 3600 concur, the right to recover such compensation, pursuant to the provisions of this division is, except as specifically provided in this section, the exclusive remedy for injury or death of an employee against any other employee of the employer acting within the scope of his or her employment, except that an employee, or his or her dependents in the event of his or her death, shall, in addition to the right to compensation against the employer, have a right to bring an action at law for damages against the other employee, as if this division did not apply, in either of the following cases:

(1) When the injury or death is proximately caused by the willful and unprovoked physical act of aggression of the other employee.

(2) When the injury or death is proximately caused by the intoxication of the other employee.

(b) In no event, either by legal action or by agreement whether entered into by the other employee or on his or her behalf, shall the employer be held liable, directly or indirectly, for damages awarded against, or for a liability incurred by the other employee under paragraph (1) or (2) of subdivision (a).

(c) No employee shall be held liable, directly or indirectly, to his or her employer, for injury or death of a coemployee except where the injured employee or his or her dependents obtain a recovery under subdivision (a).

SEC. 6. Section 3602 of the Labor Code is amended to read:

3602. (a) Where the conditions of compensation set forth in Section 3600 concur, the right to recover such compensation is, except as specifically provided in this section and Sections 3706 and 4558, the sole and exclusive remedy of the employee or his or her dependents against the employer, and the fact that either the employee or the employer also occupied another or dual capacity prior to, or at the time of, the employee's industrial injury shall not permit the employee or his or her dependents to bring an action at law for damages against the employer.

(b) An employee, or his or her dependents in the event of his or her death, may bring an action at law for damages against the employer, as if this division did not apply, in the following instances:

(1) Where the employee's injury or death is proximately caused by a willful physical assault by the employer.

(2) Where the employee's injury is aggravated by the employer's fraudulent concealment of the existence of the injury and its connection with the employment, in which case the employer's liability shall be limited to those damages proximately caused by the aggravation. The burden of proof respecting apportionment of damages between the injury and any subsequent aggravation thereof is upon the employer.

(3) Where the employee's injury or death is proximately caused by a defective product manufactured by the employer and sold, leased, or otherwise transferred for valuable consideration to an independent third person, and that product is thereafter provided for the employee's use by a third person.

(c) In all cases where the conditions of compensation set forth in Section 3600 do not concur, the liability of the employer shall be the same as if this division had not been enacted.

SEC. 7. Section 4453 of the Labor Code is amended to read:

4453. (a) Except as provided in Section 4453.1, in computing average annual earnings for the purposes of temporary disability indemnity and permanent total disability indemnity only, the average weekly earnings shall be taken at:

(1) Not less than one hundred twenty-six dollars ($126) nor more than two hundred ninety-four dollars ($294), for injuries occurring on and after January 1, 1983.

(2) Not less than one hundred sixty-eight dollars ($168) nor more than three hundred thirty-six dollars ($336), for injuries occurring on and after January 1, 1984.

(b) In computing average annual earnings for purposes of permanent partial disability indemnity, except as provided in Section 4659, the average weekly earnings shall be taken at:

(1) Not less than seventy-five dollars ($75) nor more than one hundred ninety-five dollars ($195), for injuries occurring on and after January 1, 1983.

(2) Not less than one hundred five dollars ($105) nor more than two hundred ten dollars ($210), for injuries occurring on and after

January 1, 1984.

(c) Between the limits specified in subdivisions (a) and (b), the average weekly earnings, except as provided in Sections 4456 to 4459, shall be arrived at as follows:

(1) Where the employment is for 30 or more hours a week and for five or more working days a week, the average weekly earnings shall be 100 percent of the number of working days a week times the daily earnings at the time of the injury.

(2) Where the employee is working for two or more employers at or about the time of the injury, the average weekly earnings shall be taken as 100 percent of the aggregate of such earnings from all employments computed in terms of one week; but the earnings from employments other than the employment in which the injury occurred shall not be taken at a higher rate than the hourly rate paid at the time of the injury.

(3) If the earnings are at an irregular rate, such as piecework, or on a commission basis, or are specified to be by week, month, or other period, then the average weekly earnings mentioned in subdivision (a) shall be taken as 100 percent of the actual weekly earnings averaged for such period of time, not exceeding one year, as may conveniently be taken to determine an average weekly rate of pay.

(4) Where the employment is for less than 30 hours per week, or where for any reason the foregoing methods of arriving at the average weekly earnings cannot reasonably and fairly be applied, the average weekly earnings shall be taken at 100 percent of the sum which reasonably represents the average weekly earning capacity of the injured employee at the time of his or her injury, due consideration being given to his or her actual earnings from all sources and employments.

SEC. 8. Section 4453.1 of the Labor Code is amended to read:

'4453.1. In computing average annual earnings for the purposes of temporary disability indemnity, the average weekly earnings for a claimant whose last employment was either (i) as an employee as defined in subdivision (d) of Section 3351, or (ii) as an employee engaged in vending, selling, offering for sale, or delivering directly to the public, any newspaper published at least weekly, shall be taken at not less than the lesser of the minimum amounts specified in subdivision (a) of Section 4453, or 1.2 times the employee's actual weekly earnings from all employers, nor more than two hundred ninety-four dollars ($294), for injuries occurring on and after January 1, 1983, or three hundred thirty-six dollars ($336), for injuries occurring on and after January 1, 1984. Between these limits, the average weekly earnings, except as provided in Sections 4456 to 4459, shall be arrived at as provided in paragraphs (1) through (4), inclusive, of subdivision (c) of Section 4453.

SEC. 9. Section 4460 of the Labor Code is amended to read:

4460. For the purpose of computing the temporary disability indemnity or permanent total disability indemnity payable to any employee who sustains an original injury causing temporary

disability or permanent total disability, the maximum average weekly earnings shall be taken at two hundred ninety-four dollars ($294), if the injury occurred on and after January 1, 1983, or three hundred thirty-six dollars ($336), if the injury occurred on and after January 1, 1984. For the purpose of computing the permanent partial disability indemnity payable to any employee who sustains an original injury causing permanent partial disability, the maximum average weekly earnings shall be taken at one hundred ninety-five dollars ($195), if the injury occurred on and after January 1, 1983, or two hundred ten dollars ($210), if the injury occurred on and after January 1, 1984.

Every computation made pursuant to this section as last amended shall be made only with reference to temporary disability or permanent disability resulting from an original injury sustained after the act last amending this section becomes effective; provided, however, that all rights presently existing under this section shall be continued in force.

SEC. 10. Section 4553 of the Labor Code is amended to read:

4553. The amount of compensation otherwise recoverable shall be increased one-half, together with costs and expenses not to exceed two hundred fifty dollars ($250), where the employee is injured by reason of the serious and willful misconduct of any of the following:

(a) The employer, or his managing representative.

(b) If the employer is a partnership, on the part of one of the partners or a managing representative or general superintendent thereof.

(c) If the employer is a corporation, on the part of an executive, managing officer, or general superintendent thereof.

SEC. 11. Section 4553.1 of the Labor Code is amended to read:

4553.1. In order to support a holding of serious and willful misconduct by an employer based upon violation of a safety order, the appeals board must specifically find all of the following:

(1) The specific manner in which the order was violated.

(2) That the violation of the safety order did proximately cause the injury or death, and the specific manner in which the violation constituted the proximate cause.

(3) That the safety order, and the conditions making the safety order applicable, were known to, and violated by, a particular named person, either the employer, or a representative designated by Section 4553, or that the condition making the safety order applicable was obvious, created a probability of serious injury, and that the failure of the employer, or a representative designated by Section 4553, to correct the condition constituted a reckless disregard for the probable consequences.

SEC. 12. Section 4558 is added to the Labor Code, to read:

4558. (a) As used in this section:

(1) "Employer" means a named identifiable person who is, prior to the time of the employee's injury or death, an owner or supervisor having managerial authority to direct and control the acts of

employees.

(2) "Failure to install" means omitting to attach a point of operation guard either provided or required by the manufacturer, when the attachment is required by the manufacturer and made known by him or her to the employer at the time of acquisition, installation, or manufacturer-required modification of the power press.

(3) "Manufacturer" means the designer, fabricator, or assembler of a power press.

(4) "Power press" means any material-forming machine that utilizes a die which is designed for use in the manufacture of other products.

(5) "Removal" means physical removal of a point of operation guard which is either installed by the manufacturer or installed by the employer pursuant to the requirements or instructions of the manufacturer.

(6) "Specifically authorized" means an affirmative instruction issued by the employer prior to the time of the employee's physical injury or death, but shall not mean any subsequent acquiescence in, or ratification of, removal of a point of operation safety guard.

(b) An employee, or his or her dependents in the event of the employee's death, may bring an action at law for damages against the employer where the employee's injury or death is proximately caused by the employer's knowing removal of, or knowing failure to install, a point of operation guard on a power press, and this removal or failure to install is specifically authorized by the employer under conditions known by the employer to create a probability of serious injury or death.

(c) No liability shall arise under this section absent proof that the manufacturer designed, installed, required, or otherwise provided by specification for the attachment of the guards and conveyed knowledge of the same to the employer. Proof of conveyance of this information to the employer by the manufacturer may come from any source.

(d) No right of action for contribution or indemnity by any defendant shall exist against the employer; however, a defendant may seek contribution after the employee secures a judgment against the employer pursuant to the provisions of this section if the employer fails to discharge his or her comparative share of the judgment.

SEC. 13. Section 4702 of the Labor Code is amended to read:

4702. Except as otherwise provided in this section and in Sections 4553, 4554, 4557, and 4558, the death benefit in cases of total dependency, when added to all accrued disability indemnity, shall be as follows:

(a) In the case of two or more total dependents and regardless of the number of partial dependents, eighty-five thousand dollars ($85,000), if the injury resulting in death occurred on and after January 1, 1983, or ninety-five thousand dollars ($95,000), if the injury

occurred on and after January 1, 1984.

(b) In the case of one total dependent and one or more partial dependents, sixty thousand dollars ($60,000), if the injury resulting in death occurred on and after January 1, 1983, or seventy thousand dollars ($70,000), if the injury occurred on and after January 1, 1984, plus four times the amount annually devoted to the support of the partial dependents, but not more than a total of eighty-five thousand dollars ($85,000), if the injury resulting in death occurred on and after January 1, 1983, or ninety-five thousand dollars ($95,000), if the injury occurred on and after January 1, 1984.

(c) In the case of one total dependent and no partial dependents, sixty thousand dollars ($60,000), if the injury resulting in death occurred on and after January 1, 1983, or seventy thousand dollars ($70,000), if the injury occurred on and after January 1, 1984.

(d) In the case of no total dependents and one or more partial dependents, four times the amount annually devoted to the support of the partial dependents, but not more than a total of sixty thousand dollars ($60,000), if the injury resulting in death occurred on and after January 1, 1983, or seventy thousand dollars ($70,000) if the injury occurred on and after January 1, 1984.

The death benefit in all cases shall be paid in installments in the same manner and amounts as temporary disability indemnity, payments to be made at least twice each calendar month, unless the appeals board otherwise orders.

Disability indemnity shall not be deducted from the death benefit and shall be paid in addition to the death benefit when the original injury resulting in death occurs after the effective date of the amendment to this section adopted at the 1949 Regular Session of the Legislature.

Every computation made pursuant to this section shall be made only with reference to death resulting from an original injury sustained after this section as amended in 1982 during the 1981–82 Regular Session of the Legislature becomes effective; provided, however, that all rights presently existing under this section shall be continued in force.

SEC. 14. Section 5405.5 is added to the Labor Code, to read:

5405.5. Except as otherwise provided in Section 5410, the period within which an employee may request vocational rehabilitation benefits provided by Section 139.5 is one year from the date of the last finding of permanent disability by the appeals board, or one year from the date the appeals board approved a compromise and release of other issues.

SEC. 15. Section 5410 of the Labor Code is amended to read:

5410. Nothing in this chapter shall bar the right of any injured employee to institute proceedings for the collection of compensation within five years after the date of the injury upon the ground that the original injury has caused new and further disability or the need for vocational rehabilitation benefits. The jurisdiction of the appeals board in these cases shall be a continuing jurisdiction at all times

within this period. This section does not extend the limitation provided in Section 5407.

SEC. 16. Section 5803 of the Labor Code is amended to read:

5803. The appeals board has continuing jurisdiction over all its orders, decisions, and awards made and entered under the provisions of this division, and the decisions and orders of the rehabilitation unit established under Section 139.5. At any time, upon notice and after an opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefor.

This power includes the right to review, grant or regrant, diminish, increase, or terminate, within the limits prescribed by this division, any compensation awarded, upon the grounds that the disability of the person in whose favor the award was made has either recurred, increased, diminished, or terminated.

SEC. 17. 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. 18. 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 923

An act to amend Section 39362 of the Education Code, and to amend Sections 65504, 65974, and 66463.5 of the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 39362 of the Education Code is amended to read:

39362. The sale may be made for cash, or for part cash and upon such terms of deferred payments as are determined by the action of the governing board and which are secured by purchase money, mortgage, deed of trust, an irrevocable letter of credit issued by a state of federally chartered financial institution, or any other form of security which is acceptable to the governing board.

The provisions of this section may be applied to sales made before the effective date of the amendments to this section made by the Statutes of 1982, with the consent of the parties to the sale.

SEC. 2. Section 65504 of the Government Code is amended to read:

65504. The legislative body may approve, disapprove, or modify the recommendation of the planning commission on any proposed specific plan, regulation, or amendment thereto. Any modification proposed by the legislative body which was not previously considered by the planning commission during its hearing shall first be referred to the planning commission for its report and recommendation to the legislative body. It shall not be necessary for the planning commission to hold a public hearing on the proposed modification. Failure of the planning commission to report within 40 days after the reference, or such longer period as may be designated by the legislative body, shall be deemed to be approval of the proposed change or addition.

SEC. 3. Section 65974 of the Government Code is amended to read:

65974. For the purpose of establishing an interim method of providing classroom facilities where overcrowded conditions exist, as determined necessary pursuant to Section 65971, and notwithstanding Section 66478, a city, county, or city and county may, by ordinance, require the dedication of land, the payment of fees in lieu thereof, or a combination of both, for classroom and related facilities for elementary or high schools as a condition to the approval of a residential development, provided that all of the following occur:

(a) The general plan provides for the location of public schools.

(b) The ordinance has been in effect for a period of 30 days prior to the implementation of the dedication or fee requirement.

(c) The land or fees, or both, transferred to a school district shall be used only for the purpose of providing interim elementary or high school classroom and related facilities.

(d) The location and amount of land to be dedicated or the amount of fees to be paid, or both, shall bear a reasonable relationship and will be limited to the needs of the community for interim elementary or high school facilities and shall be reasonably related and limited to the need for schools caused by the development; provided, the fees shall not exceed the amount necessary to pay five annual lease payments for the interim facilities. In lieu of the fees, the builder of a residential development may, at his or her option and at his or her expense, provide interim facilities, owned or controlled by the builder, at the place designated by the school district, and at the conclusion of the fifth school year the builder shall, at the builder's expense, remove the interim facilities from that place.

(e) A finding is made by the city council or board of supervisors that the facilities to be constructed from the fees or the land to be

dedicated, or both, is consistent with the general plan.

The ordinance may specify the methods for mitigating the conditions of overcrowding which the school district shall consider when making the finding required by subdivision (b) of Section 65971.

If the payment of fees is required, the payment shall be made at the time the building permit is issued or at a later time as may be specified in the ordinance.

Only the payment of fees may be required in subdivisions containing 50 parcels or less.

SEC. 4. Section 66463.5 of the Government Code is amended to read:

66463.5. (a) When a tentative map is required, 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 expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no parcel map of all or any portion of the real property included within such tentative map shall be filed without first processing a new tentative map.

(c) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which such map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve such 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.

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 governmental agencies can exercise the additional authority granted them by the provisions of this act at the earliest possible date, it is necessary that this act take effect immediately.

CHAPTER 924

An act to amend Section 216 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 216 of the Public Utilities Code is amended to read:

216. (a) "Public utility" includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof.

(b) Whenever any common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, or heat corporation performs a service for, or delivers a commodity to, the public or any portion thereof for which any compensation or payment whatsoever is received, that common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, or heat corporation, is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(c) When any person or corporation performs any service for, or delivers any commodity to, any person, private corporation, municipality, or other political subdivision of the state, which in turn either directly or indirectly, mediately or immediately, performs that service for, or delivers that commodity to, the public or some portion thereof, that person or corporation is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(d) In no event shall ownership or operation of a facility which employs cogeneration technology or producing power from other than a conventional power source or the ownership or operation of a facility which employs landfill gas technology be deemed to make a corporation or person a public utility, within the meaning of this section, solely because of the ownership or operation of such a facility.

(e) In no event shall any corporation or person engaged directly or indirectly in developing, producing, transmitting, distributing, delivering, or selling any form of heat derived from geothermal or solar resources or from cogeneration technology to any privately owned or publicly owned public utility, or to the public or any portion thereof, be a public utility within the meaning of this section solely by reason of engaging in any of those activities.

SEC. 2. Section 216 of the Public Utilities Code is amended to read:

216. (a) "Public utility" includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water

corporation, sewer system corporation, wharfinger, and heat corporation, where the service is performed for or the commodity delivered to the public or any portion thereof.

(b) Whenever any common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, or heat corporation performs a service for, or delivers a commodity to, the public or any portion thereof for which any compensation or payment whatsoever is received, that common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, or heat corporation, is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(c) When any person or corporation performs any service for, or delivers any commodity to, any person, private corporation, municipality, or other political subdivision of the state, which in turn either directly or indirectly, mediately or immediately, performs that service for, or delivers that commodity to, the public or some portion thereof, that person or corporation is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(d) In no event shall ownership or operation of a facility which employs cogeneration technology or producing power from other than a conventional power source or the ownership or operation of a facility which employs landfill gas technology be deemed to make a corporation or person a public utility, within the meaning of this section, solely because of the ownership or operation of such a facility.

(e) In no event shall any corporation or person engaged directly or indirectly in developing, producing, transmitting, distributing, delivering, or selling any form of heat derived from geothermal or solar resources or from cogeneration technology to any privately owned or publicly owned public utility, or to the public or any portion thereof, be a public utility within the meaning of this section solely by reason of engaging in any of those activities.

(f) In no event shall ownership or operation of a qualifying small power production facility by a private energy producer be deemed to make a corporation or person a public utility, within the meaning of this section, solely because of the ownership or operation of such a facility.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 3301 are both chaptered and become effective January 1, 1983, both bills amend Section 216 of the Public Utilities Code, and this bill is chaptered after Assembly Bill 3301, that the amendments to Section 216 proposed by both bills be given effect and incorporated in Section 216 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and

Assembly Bill 3301 are both chaptered and become effective January 1, 1983, both amend Section 216, and this bill is chaptered after Assembly Bill 3301, in which case Section 1 of this act shall not become operative.

CHAPTER 925

An act to amend Section 11003.4 of the Business and Professions Code, relating to housing.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 11003.4 of the Business and Professions Code is amended to read:

11003.4. (a) A "limited-equity housing cooperative" is a corporation which meets the criteria of Section 11003.2 and which also meets the criteria of Section 33007.5 of the Health and Safety Code. Except as provided in subdivision (b), a limited-equity housing cooperative shall be subject to all the requirements of this chapter pertaining to stock cooperatives.

(b) A limited-equity housing cooperative shall be exempt from the requirements of this chapter if the limited-equity housing cooperative complies with all the following conditions:

(1) The United States Department of Housing and Urban Development, the Farmers Home Administration, the National Consumers Cooperative Bank, the California Housing Finance Agency, or the State Department of Housing and Community Development, alone or in any combination with each other, or with the city, county, or redevelopment agency in which the cooperative is located, directly finances or subsidizes at least 50 percent of the total development cost; or, the real property to be occupied by the cooperative was sold by the State Department of Transportation for the development of the cooperative and has a regulatory agreement approved by the State Department of Housing and Community Development.

(2) No more than 10 percent of the total development cost is provided by purchasers of membership shares.

(3) A regulatory agreement has been duly executed between the recipient of the financing or subsidy and one of the federal or state agencies described in paragraph (1) of this subdivision which covers the cooperative for a term of at least as long or the duration of the financing or subsidy. The regulatory agreement shall make provisions for at least all of the following:

(A) Assurances for completion of the common areas and facilities to be owned or leased by the limited-equity housing cooperative,

unless a construction agreement between the same parties contains written assurances for completion.

(B) Governing instruments for the organization and operation of the housing cooperative by the members.

(C) The ongoing fiscal management of the project by the cooperative including an adequate budget, reserves, and provisions for maintenance and management.

(D) Distribution of a membership information report to any prospective purchaser of a membership share, prior to purchase of that share. The membership information report shall contain full disclosure of: the financial obligations and responsibilities of cooperative membership, the resale of shares, the financing of the cooperative including any arrangements made with any partners, membership share accounts, occupancy restrictions, management arrangements and any other information pertinent to the benefits, risks and obligations of cooperative ownership.

(4) The federal or state agency named in paragraph (1) which executes the regulatory agreement shall satisfy itself that the bylaws, articles of incorporation, occupancy agreement, subscription agreement, any lease of the regulated premises, any arrangement with partners, and arrangement for membership share accounts provide adequate protection of the rights of cooperative members.

(5) The federal or state agency shall receive from the attorney for the recipient of the financing or subsidy a legal opinion that the cooperative meets the requirements of Section 33007.5 of the Health and Safety Code and the exemption provided by this section.

(c) Any limited-equity cooperative which meets the requirements for exemption pursuant to subdivision (b) may elect to be subject to all provisions of this chapter.

(d) The developer of the cooperative shall notify the Department of Real Estate, on a form provided by the department, that an exemption is claimed under this section. The Department of Real Estate shall retain this form for at least four years for statistical purposes.

CHAPTER 926

An act to amend Section 27000 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 27000 of the Vehicle Code is amended to read:

27000. (a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn shall emit an unreasonably loud or harsh sound. An authorized emergency vehicle used in responding to fire calls may be equipped with, and use in conjunction with the siren on such vehicle, an air horn which emits sounds that do not comply with the requirements of this section.

(b) Every refuse or garbage truck purchased after September 1, 1983, shall be equipped with an automatic back-up audible alarm which sounds immediately on backing and which is capable of emitting sound audible under normal conditions from a distance of not less than 200 feet or shall be equipped with an automatic back-up device which is in good working order, located at the rear of the vehicle and which immediately applies the service brake of the vehicle on contact by the vehicle with any obstruction to the rear. The back-up device or alarm shall also be capable of operating automatically when the vehicle is in neutral or a forward gear but rolls backward.

(c) At the first scheduled overhaul for any refuse or garbage truck, the operator shall consider equipping the refuse or garbage truck not equipped in accordance with the requirements of subdivision (b), with the alarm or device required under subdivision (b).

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, at the earliest possible time, to enhance pedestrian safety by protecting against accidents primarily caused by unsafe backing operations, it is necessary that this act take effect immediately.

CHAPTER 927

An act to add Section 538.5 to the Penal Code, relating to fraud.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 538.5 is added to the Penal Code, to read:

538.5. Every person who transmits or causes to be transmitted by means of wire, radio or television communication any words, sounds, writings, signs, signals, or pictures for the purpose of furthering or executing a scheme or artifice to obtain, from a public utility, confidential, privileged, or proprietary information, trade secrets, trade lists, customer records, billing records, customer credit data, or accounting data by means of false or fraudulent pretenses, representations, personations, or promises is guilty of an offense punishable by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year.

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 928

An act to amend Sections 510, 1155.6, and 18613 of the Health and Safety Code, relating to inspections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 510 of the Health and Safety Code is amended to read:

510. Whenever the governing body of any city, county, or city and county determines that the expenses of its health officer or other officers or employees in the enforcement of any statute, order, quarantine, rule, or regulation prescribed by a state officer or department relating to public health, which either requires or authorizes its health officer or other officers or employees to perform

specified acts, are not met by any fees prescribed by the state, the governing body may adopt an ordinance or resolution prescribing fees that will pay the reasonable expenses of the health officer or other officers or employees incurred in the enforcement, and may authorize a direct assessment against the real property in cases where the real property is owned by the operator of a business and the property is the subject of the enforcement. The schedule of fees prescribed by ordinance or resolution of the governing body shall be applicable in the area in which the health officer or other officers or employees enforce any statute, order, quarantine, rule, or regulation prescribed by a state health officer or department relating to public health.

SEC. 2. Section 1155.6 of the Health and Safety Code is amended to read:

1155.6. If such transfer is made:

(a) Each agency shall employ as the immediate supervisor of the environmental health and sanitation services a director of environmental health who is a registered sanitarian and such agency shall employ an adequate number of registered sanitarians to carry on the program of environmental health and sanitation services.

(b) Wherever, in any statute, rule, regulation, resolution, or order, a power is granted to, or a duty is imposed upon, a county or district health officer, county health department, or county health district pertaining to environmental health and sanitation services and programs transferred by the board of supervisors or health district board, such powers and duties shall be delegated by the local health officer to the director of environmental health and such powers and duties shall thereafter be administered by the director of environmental health.

(c) The State Department of Health Services shall adopt rules and regulations pertaining to minimum program and personnel requirements of such environmental health and sanitation services and programs. The State Department of Health Services shall periodically review such programs to determine if minimum requirements are met.

(d) Whenever the board of supervisors or health district board determines that the expenses of its environmental health director in the enforcement of any statute, order, quarantine, rule, or regulation prescribed by a state officer or department relating to environmental health and sanitation are not met by any fees prescribed by the state, such board may adopt an ordinance or resolution prescribing such fees as will pay the reasonable expenses of such director incurred in such enforcement. The schedule of fees prescribed by ordinance or resolution of the board of supervisors or health district board shall be applicable in the area in which the environmental health director enforces any statute, order, quarantine, rule, or regulation prescribed by a state officer or department relating to environmental health and sanitation.

SEC. 3. Section 18613 of the Health and Safety Code is amended

to read:

18613. On and after July 1, 1974, a permit shall be obtained from the enforcement agency each time a mobilehome, which is required to be moved under a permit, is to be located or installed on any site for the purpose of human habitation or occupancy as a dwelling.

The contractor engaged to install the mobilehome shall obtain the permit, except when the owner of the mobilehome proposes to perform the installation. When a contractor applies for a permit to install a mobilehome, he shall display a valid contractor's license. The contractor shall complete the installation of the mobilehome in accordance with the building standards published in the State Building Standards Code relating to mobilehome parks and the other regulations adopted by the commission within the time limitations which shall be established by regulations of the commission. The time limitations shall allow contractors a reasonable amount of time within which to complete mobilehome installations. If inspection of the mobilehome installation by the enforcement agency determines that the mobilehome cannot be approved for occupancy due to defective material, systems, workmanship, or equipment of the mobilehome, the contractor shall be allowed a reasonable amount of time, as determined by regulations of the commission, to complete the installation after the defects in the mobilehome have been corrected. The enforcement agency shall immediately notify the department whenever any mobilehome cannot be approved for occupancy due to defects of the mobilehome. The report of notification shall indicate health and safety defects and, in the case of new mobilehomes, substantial defects of materials and workmanship. For purposes of this section, "substantial defects of materials and workmanship" means defects objectively manifested by broken, ripped, cracked, stained, or missing parts or components and shall not include alleged defects concerning color combinations or grade of materials used. If the mobilehome fails the installation inspection because of conditions which do not endanger the health or safety of the occupant, the owner may occupy the mobilehome. If, however, the installation fails inspection due to immediate hazards to the health or safety of the occupant, as determined by the enforcement agency, the mobilehome shall not be occupied.

Except as provided in Section 18930, the commission shall adopt regulations for the installations and the department shall adopt regulations which specify a standard form required to be used statewide by enforcement agencies as a certificate of occupancy or statement of installation acceptance. The department shall transmit a copy of the standard form to all enforcement agencies. An enforcement agency shall not be required to use the standard forms until their existing stock of forms for this purpose is depleted. The commission shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code relating to

mobilehomes and mobilehome parks and the other regulations adopted by the commission pursuant to this section shall establish such requirements as the commission determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section. In adopting building regulations or adopting other regulations pursuant to this section, the commission shall consider reassembly of the mobilehome, stabilizing devices and load-bearing supports, and utility connections and connectors.

The commission shall establish a schedule of fees for the permits required by this section commensurate with the cost of the enforcement of this section, the building standards published in the State Building Standards Code relating to mobilehomes and mobilehome parks, and the other regulations adopted pursuant to the provisions of this section. Where a city, county, or city and county is responsible for the enforcement, the city, county, or city and county may establish a schedule of fees not to exceed the actual cost of enforcement and not to exceed those fees established by the department where the department is the enforcement agency. Permit fees and reinspection fees shall be paid to the enforcement agency by the permittee.

This section does not apply to recreational vehicles or commercial coaches.

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 allow the local agency to provide an orderly administration and establishment of fees, it is necessary that this act take effect immediately.

CHAPTER 929

An act to add Section 1170.8 to the Penal Code, relating to crimes.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 1170.8 is added to the Penal Code, to read:

1170.8. (a) The fact that a robbery or an assault with a deadly weapon or instrument or by means of any force likely to produce great bodily injury was committed against a person while that person was in a church, synagogue, or building owned and occupied by a religious educational institution, or any other place primarily used as a place of worship where religious services are regularly conducted, shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

(b) Upon conviction of any person for a violation of Section 451 or 453, the fact that the person intentionally burned, or intended to burn, a church, synagogue, or building owned and occupied by a religious educational institution, or any other place primarily used as a place of worship where religious services are regularly conducted, shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

CHAPTER 930

An act to amend Sections 1026.2 and 1611 of the Penal Code, relating to crimes.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 1026.2 of the Penal Code is amended to read:

1026.2. An application for the release of a person who has been committed to a state hospital or other treatment facility, as provided in Section 1026, upon the ground that sanity has been restored, may be made to the superior court of the county from which the commitment was made, either by such person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the county mental health director where the person is on outpatient status under Title 15 (commencing with Section 1600) of Part 2. The applicant shall transmit a copy of the application to the county mental health director or a designee. The court shall give notice of the hearing date to the prosecuting attorney, the county mental health director or a designee and to the Director of Mental Health. No hearing upon such application shall be allowed until the person committed shall have been confined or placed on outpatient status or on parole under Section 1611 for a period of not less than 90 days from the date of the order of commitment. If the finding of the court is adverse to releasing such person on the ground that sanity has not been restored, no application shall be filed by the person until one year has elapsed from the date of hearing upon the last preceding application. In any hearing authorized by this section, the burden of proving that sanity has been restored shall be upon the applicant. The court shall notify the county mental health director or a designee and the Director of Mental Health whether or not the defendant was found by the court to have recovered sanity.

If the application for the release is not made by the medical director of the state hospital or other treatment facility to which the person is committed, no action on the application shall be taken by

the court without first obtaining the written recommendation of the medical director of the state hospital or other treatment facility.

SEC. 2. Section 1611 of the Penal Code is amended to read:

1611. Where a county has no program appropriate for supervision and treatment of persons under Sections 1602 and 1603, or where the report of the county mental health director to the court under such sections indicates that the county does not wish to assume treatment responsibility, the following provisions shall be applicable:

(a) Whenever any person has been confined in a state hospital or other treatment facility for 90 days or more, after having been committed to a state hospital or other facility under the provisions of Section 1026 in a criminal proceeding in which the offense alleged to have been committed by such person was punishable by a penalty other than death, or for three years or more if the offense alleged to have been committed was punishable by death, and the medical director of the state hospital or other facility is of the opinion that the person has improved to such an extent that the person is no longer a danger to the health and safety of others while on parole and that the person will receive benefit from parole, the medical director may certify that opinion to the committing court. The court shall notify the prosecuting attorney, the attorney of record for the person, and the county mental health director or a designee of the certification and shall make the evaluation and outpatient treatment plan available to them at least 15 days in advance of this hearing. The court shall hold a hearing in open court prior to ordering parole treatment, and shall either approve or disapprove the plan. If the approval of the court is given, parole shall be granted subject to the terms and conditions specified by the court. The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of Mental Health. At 90-day intervals following the beginning of parole treatment, the parole supervisor shall submit a written report to the state hospital or other facility from which the person was placed on parole setting forth the status and progress of the person. The medical director shall continue such reports at six-month intervals under Section 1026. If the court disapproves of such recommendation, no further recommendation for parole shall be made by the medical director until six months have elapsed from the date of the last preceding recommendation. The maximum period of parole treatment shall not exceed one year. The court shall, at the end of such maximum period, hold a hearing and either renew its approval for additional parole treatment upon the recommendation of the medical director of the state hospital or other facility from which the person was paroled, discharge from the commitment pursuant to Section 1026.2, or direct that the person be returned to the state hospital or other facility. The court shall transmit a copy of its order to the county mental health director or a designee, the medical director of the state hospital or other facility, and to the Director of Mental Health.

(b) If at any time during the period of parole the supervisor of the

paroled person is of the opinion that the person no longer meets the conditions of parole and needs extended inpatient treatment, or that the person refuses to accept parole supervision, this information shall be communicated to the medical director of the inpatient facility from which the person was paroled, or a designee. If the medical director or a designee concurs, the parole supervisor shall notify the paroled person, the committing court, the prosecuting attorney, and the attorney of record for the person, of the intent to return the person to an inpatient facility. Such notice shall be in writing and shall state the reasons for the transfer. Within 15 judicial days after the notice has been served on the paroled person, the court shall set a hearing at which the court shall determine whether the transfer will be approved or disapproved.

(c) (1) Upon the filing of a request for revocation of parole status, and pending the court's decision on revocation, the person subject to revocation may be confined in a state hospital or other treatment facility by the parole supervisor when it is the parole supervisor's opinion that the person will now be a danger to himself or herself or to another while on parole status and that to delay hospitalization until the revocation hearing would pose an imminent risk of harm to the person or to another. Upon the request of the parole supervisor, a peace officer shall take, or cause to be taken, the person into custody and transport the person to a treatment facility for hospitalization under this section. The parole supervisor shall notify the court in writing of the admission of the person to inpatient status and of the factual basis for the opinion that such immediate return to inpatient treatment was necessary. The court shall supply a copy of these documents to the prosecutor and defense counsel.

(2) A person hospitalized under this subdivision shall have the right to judicial review of the detention in the manner prescribed in Article 5 (commencing with Section 5275) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code and to an explanation of rights in the manner prescribed in Section 5252.1 of the Welfare and Institutions Code.

(3) Nothing in this subdivision shall prevent hospitalization pursuant to the provisions of Section 5150, 5250, 5350, or 5353 of the Welfare and Institutions Code.

(4) A person whose return from parole status to an inpatient facility is approved under this subdivision shall not be released again on parole unless court approval is again obtained pursuant to subdivision (a).

CHAPTER 931

An act to amend Section 904.1 of the Code of Civil Procedure, relating to appeals.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h), (i) and (j), (2) a judgment of contempt which is made final and conclusive by Section 1222, or (3) a judgment on appeal from a municipal court or a justice court or a small claims court, or (4) a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition directed to a municipal court or a justice court or the judge or judges thereof which relates to a matter pending in the municipal or justice court. However, an appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition upon petition for an extraordinary writ.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining such right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an interlocutory judgment of dissolution of marriage, including the provisions thereof determining the separate, community, or quasi-community character of the parties' properties, regardless of whether the court in such judgment has reserved jurisdiction pursuant to Section 4800 of the Civil Code to value or

divide all or a portion of the community or quasi-community property.

(k) From an order or decree made appealable by the provisions of the Probate Code.

CHAPTER 932

An act to amend Sections 11217, 11483, 11876, 11877, 11878, 11880, and 11881 of, and to add Section 11877.5 to, the Health and Safety Code, relating to drugs.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 11217 of the Health and Safety Code is amended to read:

11217. No person shall treat an addict for addiction to a narcotic drug which is an opiate except in one of the following:

(a) An institution approved by the State Department of Mental Health, and where the patient is at all times kept under restraint and control.

(b) A city or county jail.

(c) A state prison.

(d) A facility designated by a county and approved by the State Department of Mental Health pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code.

(e) A state hospital.

(f) A county hospital.

Methadone in the continuing treatment of addiction to a controlled substance shall be used only in those programs licensed by the department pursuant to Article 4 (commencing with Section 11885) of Chapter 1 of Part 3 of Division 10.5 on either an inpatient or outpatient basis, or both.

This section does not apply during emergency treatment, or where the patient's addiction is complicated by the presence of incurable disease, serious accident, or injury, or the infirmities of old age.

Neither this section nor any other provision of this division shall be construed to prohibit the maintenance of a place in which persons seeking to recover from addiction to a controlled substance reside and endeavor to aid one another and receive aid from others in recovering from such addiction, nor does this section or such division prohibit such aid, provided that no person is treated for addiction in such place by means of administering, furnishing, or prescribing of controlled substances. The preceding sentence is declaratory of preexisting law.

Neither this section or any other provision of this division shall be

construed to prohibit short-term methadone detoxification treatment in a controlled setting approved by the director and pursuant to rules and regulations of the director. Facilities and treatment approved by the director under this paragraph shall not be subject to approval or inspection by the Board of Medical Quality Assurance, nor shall persons in such facilities be required to register with, or report the termination of residence with, the police department or sheriff's office.

SEC. 2. Section 11483 of the Health and Safety Code is amended to read:

11483. No provision of this division shall be construed to prohibit the establishment and effective operation of a methadone maintenance treatment program licensed pursuant to Article 4 (commencing with Section 11885) of Chapter 1 of Part 3 of Division 10.5.

SEC. 3. Section 11876 of the Health and Safety Code is amended to read:

11876. In addition to the duties authorized by other provisions, the department shall have all of the following powers:

(a) Exclusive authority to license the establishment of methadone programs in this state, except that the Research Advisory Panel shall have authority to approve methadone research programs. The department shall establish the criteria for the eligibility of patients to be included in the programs, program operation guidelines, such as dosage levels, recordkeeping and reporting, urinalysis requirements, take-home doses of methadone, security against redistribution of the drug and any other regulations which, in its discretion, the department finds are necessary to protect the safety and well-being of the patient and the public and to carry out the provisions of this chapter. The arrest and conviction records and the records of pending charges against any person seeking admission to a methadone program shall be furnished to methadone program directors upon written request of the methadone program director provided such request is accompanied by a signed release from the person whose records are being requested.

(b) To monitor methadone programs in this state to ensure that the programs are operating within promulgated regulations. The department shall have sole responsibility for compliance monitoring. Monitoring of methadone programs shall be based on objective criteria, as provided in regulations adopted by the department. Nothing in this section shall preclude counties from monitoring their contract providers for compliance with contract requirements. Counties shall not charge a fee for this monitoring.

(c) To study and evaluate, on an ongoing basis, methadone programs in this state and annually report to the Legislature on the effectiveness and needs of the programs.

(d) To provide advice, consultation, and technical assistance to methadone programs.

(e) In its discretion, to approve local agencies or bodies to assist

it in carrying out the provisions of this chapter.

(f) It is the intent of the Legislature in enacting this section in order to protect the general public, that self-administered dosage shall only be provided when the patient is clearly adhering to the requirements of his program, and where daily attendance at a clinic would be incompatible with gainful employment, education, and responsible homemaking. The director shall define "satisfactory adherence" and shall ensure that patients not satisfactorily adhering to their programs shall not be provided take-home dosage.

SEC. 4. Section 11877 of the Health and Safety Code is amended to read:

11877. In addition to the duties authorized by other provisions, the department shall be responsible for licensing methadone programs established by the county mental health program, pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code.

No such programs shall be established without first obtaining a license therefor as provided in this chapter. The department may license such programs on an inpatient or outpatient basis, or both.

SEC. 5. Section 11877.5 is added to the Health and Safety Code, to read:

11877.5. Each methadone program in this state, except methadone research programs approved by the Research Advisory Panel, shall be licensed by the department. Each methadone program, other than a program owned and operated by the state, county, city, or city and county, shall, upon application for licensure and for renewal of a license, pay an annual license fee to the department. Annual license renewal date shall be on the yearly anniversary of the most recent license. The department shall set a fee for licensing which shall be at a level sufficient to cover all administrative costs associated with licensing incurred by the department, but shall not increase at a rate greater than the Consumer Price Index. Such fee may be paid quarterly in arrears determined by the department. Licensing shall be contingent upon determination by the department that the program is in compliance with methadone regulations promulgated by the department and upon payment of the licensing fee. A license shall not be transferrable.

As used in this chapter, "license" means a basic permit to operate a methadone treatment program.

Existing methadone treatment programs with department approval on January 1, 1983, shall be deemed licensed on that date. Nothing in this section shall be interpreted as a waiver of the department's responsibility to conduct reviews of methadone programs.

SEC. 6. Section 11878 of the Health and Safety Code is amended to read:

11878. The department shall not license the establishment of a methadone program without a written application by the treatment

facility which meets evaluative criteria required by the department.

The department shall not require disclosure of the identity of patients or former patients or of any records containing identifying information except as provided in Section 11879. Other information and records shall be subject to the confidentiality and disclosure provisions contained in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code.

SEC. 7. Section 11880 of the Health and Safety Code is amended to read:

11880. It is the intent of the Legislature in licensing methadone programs to provide a means whereby the patient may be rehabilitated and will no longer be forced to resort to illegal activities in order to support a dependency on heroin. It is, therefore, the intent of the Legislature that each methadone program shall have a strong rehabilitative element, including, but not limited to, individual and group therapy, counseling, vocational guidance, and job and education counseling. The Legislature declares the ultimate goal of all methadone programs shall be to aid the patient in altering his or her life style and eventually to eliminate all dependency on drugs.

The department shall promulgate such regulations as are necessary to ensure that every program is making a sustained effort to end the drug dependency of the patients on its program.

SEC. 8. Section 11881 of the Health and Safety Code is amended to read:

11881. The State Department of Health Services shall establish criteria for acceptable performance from those laboratories performing urinalysis or other body fluid analysis and shall not permit utilization of laboratories unable to meet an acceptable level of performance. The results of any performance evaluation of any laboratory shall immediately be made available to the local programs upon request. Nothing in this section shall prohibit body fluid analysis to be performed by a licensed methadone program upon approval of the State Department of Health Services.

CHAPTER 933

An act to add Section 10952.5 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 10952.5 is added to the Welfare and Institutions Code, to read:

10952.5. If regulations require a county to write a position

statement concerning the issues in question in a fair hearing, or if the county chooses to develop such a statement, not less than two working days prior to the date of a hearing provided for pursuant to this chapter, the county shall make available to the applicant for, or recipient of, public social services requesting a fair hearing, a copy of the county's position statement on the forthcoming hearing. The county shall make the copy available to the applicant or recipient at the county welfare department. A county shall be required to comply with the provisions of this section only if the county has received a ten-day prior notice of the date and time of the scheduled hearing.

If the county does not make the position statement available not less than two working days prior to the hearing or if the county decides to modify the position statement, the hearing shall be postponed upon the request of the applicant or recipient, provided an applicant or recipient agrees to waive the right to obtain a decision on the hearing within the deadline that would otherwise be applicable under regulations. A postponement for reason of the county not making the position statement available within not less than two working days shall be deemed a postponement for good cause for purposes of determining eligibility to any applicable benefits pending disposition of the hearing.

CHAPTER 934

An act relating to school districts, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. (a) An amount not to exceed one million eight hundred thousand dollars ($1,800,000) is hereby reappropriated from the unencumbered balances in the State School Building Lease-Purchase Fund, created pursuant to Section 17708 of the Education Code, to the State Allocation Board for apportionment without regard to fiscal year to the Taft City School District for the rehabilitation or replacement of Jefferson School.

(b) The board is authorized to apportion to the district from the funds reappropriated pursuant to subdivision (a) the cost of either rehabilitating the existing buildings of Jefferson School or constructing new buildings sufficient to house 291 units of average daily attendance in accordance with building area and cost standards established by the board, whichever is less.

(c) Prior to receiving any apportionment from the State

Allocation Board, the Taft City School District shall sell any surplus property that will result from the rehabilitation of existing buildings of Jefferson School or construction of new buildings. The proceeds of the sale shall be deducted from any apportionment made to Taft City School District by the State Allocation Board.

(d) This section shall remain in effect only until June 30, 1985, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1985, extends or deletes 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 that the Taft City School District can repair, replace, or relocate as soon as possible the two buildings of Jefferson School which have been declared unsafe for use as a result of subsidence, it is necessary that this act take effect immediately.

CHAPTER 935

An act to amend Section 496 of the Penal Code, relating to stolen property.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION. 1. Section 496 of the Penal Code is amended to read:

496. 1. Every person who buys or receives any property which has been stolen or which has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds or aids in concealing, selling, or withholding any such property from the owner, knowing the property to be so stolen or obtained, is punishable by imprisonment in a state prison, or in a county jail for not more than one year; provided, that where the district attorney or the grand jury determines that such action would be in the interests of justice, the district attorney or the grand jury, as the case may be, may, if the value of the property does not exceed four hundred dollars ($400), specify in the accusatory pleading that the offense shall be a misdemeanor, punishable only by imprisonment in the county jail not exceeding one year.

2. Every swap meet vendor as defined in Section 21661 of the Business and Professions Code and every person whose principal business is dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of such person, who buys or receives any property which has been stolen or obtained in any manner constituting theft or extortion,

under such circumstances as should cause such person, agent, employee or representative to make reasonable inquiry to ascertain that the person from whom such property was bought or received had the legal right to sell or deliver it, without making such reasonable inquiry, shall be presumed to have bought or received such property knowing it to have been so stolen or obtained. This presumption may, however, be rebutted by proof.

3. When in a prosecution under this section it shall appear from the evidence that the defendant was a swap meet vendor or that the defendant's principal business was as set forth in the preceding paragraph, that the defendant bought, received, or otherwise obtained, or concealed, withheld or aided in concealing or withholding from the owner, any property which had been stolen or obtained in any manner constituting theft or extortion, and that the defendant bought, received, obtained, concealed or withheld such property under such circumstances as should have caused him or her to make reasonable inquiry to ascertain that the person from whom he bought, received, or obtained such property had the legal right to sell or deliver it to him or her, then the burden shall be upon the defendant to show that before so buying, receiving, or otherwise obtaining such property, he or she made such reasonable inquiry to ascertain that the person so selling or delivering the same to him or her had the legal right to so sell or deliver it.

4. Any person who has been injured by a violation of paragraph 1 of this section may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit and reasonable attorney's fees.

5. Notwithstanding Section 664, any attempt to commit any act prohibited by this section, except an offense specified in the accusatory pleading as a misdemeanor, is punishable by imprisonment in a state prison, or in a county jail for not more than one year.

SEC. 2. The changes in monetary limits or amounts contained in this bill, Assembly Bill 1389 of the 1981–82 Regular Session of the Legislature, and Assembly Bill 629, which was enacted as Chapter 80 of the Statutes of 1982, shall apply only to offenses committed on or after January 1, 1983. It is the intent of the Legislature that the changes in these bills be given no retroactive effect.

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 936

An act to amend Section 313 of the Penal Code, relating to harmful matter.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 313 of the Penal Code is amended to read:

313. As used in this chapter:

(a) "Harmful matter" means matter, taken as a whole, the predominant appeal of which to the average person, applying contemporary standards, is to prurient interest, i.e., a shameful or morbid interest in nudity, sex, or excretion; and is matter which taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters; and is matter which taken as a whole is utterly without redeeming social importance for minors.

(1) When it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for clearly defined deviant sexual groups, the predominant appeal of the matter shall be judged with reference to its intended recipient group.

(2) In prosecutions under this chapter, where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that matter is being commercially exploited by the defendant for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is utterly without redeeming social importance for minors.

(b) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription, or mechanical, chemical, or electrical reproduction, computer program, or any other articles, equipment, machines, or materials.

(c) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(d) "Distribute" means to transfer possession of, whether with or without consideration.

(e) "Knowingly" means being aware of the character of the matter.

(f) "Exhibit" means to show.

(g) "Minor" means any natural person under 18 years of age.

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 937

An act to amend Sections 84604, 84605, and 84642 of, to add Section 71094 to, and to repeal Chapter 4.5 (commencing with Section 84600) of Part 50 of, the Education Code, and to add Section 12419.7 to the Government Code, relating to postsecondary education.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 71094 is added to the Education Code, to read:

71094. The chancellor's office may contract with community college districts for the performance of administrative services necessary to implement Section 12419.7 of the Government Code. The chancellor's office may charge the districts for the costs of those administrative services.

SEC. 1.5. Section 84604 of the Education Code is amended to read:

84604. The base 1981–82 fiscal year revenues for each community college district shall be those revenues received pursuant to Section 84720, exclusive of Section 84724, minus the child development program deduction computed pursuant to Item 388.1 of the Budget Act of 1980, plus the timber yield tax minimum revenue guarantee for the 1980–81 fiscal year certified pursuant to Section 27423 of the Government Code, except in the event that the general state aid plus local property tax revenues available for the purposes of Sections 84720 to 84724, inclusive, are less than 0.98 times the revenues calculated pursuant to Sections 84720 to 84724, inclusive, in which case the base 1981–82 fiscal year revenues shall be the amount in subdivision (b) plus the amount in subdivision (c) minus the child development program deduction computed pursuant to Item 388.1 of the Budget Act of 1980, plus the timber yield tax minimum revenue guarantee for the 1980–81 fiscal year certified pursuant to Section 27423 of the Government Code, but in no case less than the amount in subdivision (a) plus the timber yield tax minimum revenue guarantee for the 1980–81 fiscal year certified pursuant to Section 27423 of the Government Code, minus the child development program deduction computed pursuant to Item 388.1 of the Budget Act of 1980:

(a) The total general revenue for the district received for the 1979–80 fiscal year pursuant to Section 84700, exclusive of Section 84705, multiplied by 1.01.

(b) 0.99 multiplied by the amount computed pursuant to Section 84721 plus the amount computed pursuant to Section 84723.

(c) The amount computed pursuant to Section 84722 multiplied by the deficit factor which results in a total statewide apportionment equal to the amount budgeted for state general apportionment for the 1980–81 fiscal year.

SEC. 2. Section 84605 of the Education Code is amended to read:

84605. For the 1981–82 fiscal year, the chancellor shall apportion state aid to community college districts according to the following procedure:

(a) The 1981–82 fiscal year revenues for each community college district shall be its base 1981–82 fiscal year revenues, as defined in Section 84604, as adjusted by Section 84604.5, plus or minus the average daily attendance adjustments based on incremental costs, as defined in Sections 84606 and 84607 subject to the provisions of subdivision (g); plus the inflation adjustment specified in Section 84608; plus the capital outlay or lease-purchase assistance, if any, as specified in Section 84609.

(b) The chancellor shall adjust the amounts determined pursuant to subdivision (a) to provide for prior year adjustments or adjustments which are required pursuant to Section 84330, as well as adjustments for the effects of annexation or transfer of territory occurring after June 30, 1978.

(c) From the 1981–82 fiscal year revenues of each community college district, as adjusted by subdivision (b), the chancellor shall subtract local property tax revenues, specified by law for the general operating support of community colleges, exclusive of bond interest and redemption, timber yield tax revenue received pursuant to Section 38905 of the Revenue and Taxation Code, and motor vehicle license fees received pursuant to Section 11003.4 of the Revenue and Taxation Code. The remainder shall be the state general apportionment for each such district.

(d) The Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county containing a community college district at such times and in such amounts as determined by the chancellor. However, no more than 75 percent of the state general apportionment provided for in this section shall be made prior to February 1, 1982.

(e) On or before March 1, 1982, the chancellor shall publish and shall provide to the Legislature, a report on revenues per unit of average daily attendance in the community colleges. The report shall include comparisons on a district-by-district basis, as well as on a statewide basis, of revenues per unit of average daily attendance for fiscal years 1980–81 and 1981–82. The report shall also include information on the amounts of actual and estimated sources of revenue that comprise the base for the calculation of revenues per

unit of average daily attendance.

(f) For purposes of this article, "average daily attendance" shall mean the attendance of state residents attending within the district.

(g) Statewide average daily attendance computed for apportionment purposes shall not exceed 1.025 times 1980–81 fiscal year statewide average daily attendance. To the extent possible, statewide workload changes to be funded on a district-by-district basis shall be determined by the chancellor, in cooperation with the Department of Finance, and shall include such factors as changes in adult population in the district, unemployment rates, and increases in refugee population.

SEC. 3. Section 84642 of the Education Code is amended to read:

84642. This chapter shall remain in effect only 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. 4. Section 12419.7 is added to the Government Code, to read:

12419.7. For the purposes of Section 12419.5, an amount due a state agency from a person or entity shall include any amount due a community college district from a person for repayment of student financial assistance.

If the Controller, in his or her discretion, offsets an amount due a community college district from a person pursuant to Section 12419.5, the Controller shall remit the amount offset to the district.

SEC. 5. Regardless of when this act becomes effective, it is the intent of the Legislature to make changes in state apportionments to community college districts in the 1981–82 and 1982–83 fiscal years. For the purpose of implementing the changes required by Sections 1 and 2 of this act, the Chancellor of the California Community Colleges and other public officers shall take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section B of the State School Fund and other public funds.

SEC. 6. The Legislature hereby finds and declares that the changes made in state apportionments to community college districts in the 1981–82 and 1982–83 fiscal years by Sections 1 and 2 of this act, recognize the need for maintaining a stable source of funding for those districts which receive timber tax revenues. Therefore, it is the intent of the Legislature that future legislation prescribing the method of determining state apportionments to community college districts in the 1983–84 fiscal year and each fiscal year thereafter, also recognize this need.

CHAPTER 938

An act to add Section 18801.1 to, and to add Chapter 3.5 (commencing with Section 19992.8) to Part 2.6 of Division 5 of Title 2 of, the Government Code, relating to state employees.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. The Legislature finds that an effective employee performance appraisal system depends on the active involvement of appointing powers and managerial employees in its design and application. The history of performance appraisals in the California civil service demonstrates that when employees do not participate in the formation and use of the system, it often is ignored or otherwise rendered ineffective.

The Legislature finds that an employee performance appraisal system can be worthwhile only if agencies have adequate time for reviewing methods currently used in business and government, developing appropriate standards which reflect the unique characteristics of each governmental unit, and testing on-the-job effectiveness before implementation.

The Legislature finds that when an employee performance appraisal system is administered properly:

(1) Employees who do especially good work are given recognition.

(2) Employees are assisted in preparing for promotion and in improving present performance.

(3) The judgment of the supervisor is not based on his or her personal likes and dislikes.

(4) The supervisor and the employee have a clearer understanding of what is expected in their work.

(5) Dissatisfactions are brought into the open and adjusted more promptly and fairly.

The Legislature declares it is in the public interest to measure performance at every level of employment in the state civil service. Moreover, this goal can be achieved best by first establishing practical approaches enabling appointing powers to evaluate managers.

SEC. 2. Section 18801.1 is added to the Government Code, to read:

18801.1. The Department of Personnel Administration shall designate managerial positions, as defined in subdivision (e) of Section 3513, and shall report the designations to the board annually. Any disputes as to the managerial classification or position designations may be appealed to the State Personnel Board.

SEC. 3. Chapter 3.5 (commencing with Section 19992.8) is added

to Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 3.5. PERFORMANCE REPORTS FOR MANAGERIAL EMPLOYEES

19992.8. After consultation with appointing powers and other supervising officials the department shall assist and encourage state agencies to establish standards of performance for managerial employees and may provide training in developing performance appraisal systems. Such standards shall be mutually developed by managerial employees and their appointing powers. These standards shall be based on individual and organizational requirements established, in writing, for the reporting period. The reporting period shall be no more than 12 months from the date of the last report following the end of the employee's probationary period.

19992.9. The system of performance appraisal reports shall be designed by managerial employees and their appointing powers to permit the evaluation by appointing powers of each employee's work performance as accurately and fairly as is reasonably possible. The evaluation shall be set forth in a written performance appraisal report, the form for which shall be approved by the department. The department may investigate administration of the system and enforce adherence to appropriate standards.

19992.10. Appointing powers shall prepare performance appraisal reports and keep them on file as prescribed by department rule.

The rules shall provide that managerial employees be shown the performance appraisal report covering their own service and are privileged to discuss it and sign it with the appointing power before it is filed. The extent to which the reports shall be open to inspection by the public shall be prescribed by department rule.

19992.11. Performance reports shall be considered, in the manner prescribed by department rule, for purposes of employee development, in determining salary increases and decreases, the order of layoffs, the advisability of transfers, demotions, and dismissals. Performance reports shall be considered in promotional examinations in the manner prescribed by State Personnel Board rule. On or before July 1, 1988, performance appraisal reports for managers shall be used to award merit salary increases on a flexible basis so that each such employee may receive up to a 10-percent increase provided that this does not increase the employee's salary beyond the highest step of the range for the class of position occupied by the employee. The total amount awarded by the appointing power for merit salary increases through this practice shall not exceed the amount which otherwise would be available under current methods.

19992.12. The department may establish rules under which records of unsatisfactory service may lead to reduction in class and compensation, and providing for the manner in which persons falling

below the standards of efficiency may be removed from their positions by the appointing powers, substantially as in the case of removals for cause.

19992.13. The department shall establish a procedure whereby a managerial employee may appeal his or her performance appraisal report to the appointing power. At a minimum, these procedures shall permit appeals on the basis that the performance appraisal report was used to abuse, harass, or discriminate against the employee.

19992.14. Each state agency shall establish a system of performance appraisal reports which shall form the basis for awarding merit salary increases to managers on or before July 1, 1988. Any agency which fails to establish such a system on or before July 1, 1988, shall forfeit 50 percent of merit salary funds otherwise available for eligible managerial employees during that fiscal year. Any agency which fails to establish such a system on or before July 1, 1989, shall forfeit 75 percent of merit salary funds otherwise available for eligible managerial employees during that fiscal year. Any agency which fails to establish such a system on or before July 1, 1990, shall forfeit all merit salary funds otherwise available for eligible managerial employees during that fiscal year, and during each subsequent fiscal year during which such a system is not established.

SEC. 4. Section 3 of this act shall become operative on July 1, 1983.

CHAPTER 939

An act to amend Sections 11251 and 11492 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 11251 of the Revenue and Taxation Code is amended to read:

11251. Private railroad cars operated upon railroads into, out of, or through this state shall be assessed by the board at their full value, and taxed as prescribed in this part.

SEC. 2. Section 11492 of the Revenue and Taxation Code is amended to read:

11492. The lien upon personal property created by this part attaches as of 12:01 a.m. on the first day of January of each year with respect to taxes, together with the interest and penalties thereon, to be levied during the year.

SEC. 3. The provisions of this act shall become operative on January 1, 1984.

CHAPTER 940

An act to amend Sections 10163.1, 10163.2, 10489.1, 10489.2, 10489.4, 10489.5, 11134, and 11136 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 10163.1 of the Insurance Code is amended to read:

10163.1. (a) In the case of ordinary policies issued on or after the operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this article shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed 3½ percent per annum except that a rate of interest not exceeding 4 percent per annum may be used for all policies issued on or after January 1, 1970, and prior to January 1, 1980, and a rate of interest not exceeding 5½ percent per annum may be used for all such policies issued on or after January 1, 1980, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6½ percent per annum may be used; provided, that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured; provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table; provided further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

On or after January 1, 1961, any company may file with the commissioner a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such company), this subdivision shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of this subdivision for such company shall be January 1, 1966.

(b) In the case of industrial policies issued on or after the

operative date of this subdivision as defined herein, all adjusted premiums and present values referred to in this article shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed 3½ percent per annum except that a rate of interest not exceeding 4 percent per annum may be used for all such policies issued on or after January 1, 1970, and prior to January 1, 1980, and a rate of interest not exceeding 5½ percent per annum may be used for all such policies issued on or after January 1, 1980, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6½ percent per annum may be used. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After September 20, 1963, any company may file with the commissioner a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of this subdivision for such company), this subdivision shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this subdivision for such company shall be January 1, 1968.

This section shall not apply to ordinary or industrial policies issued on or after the operative date of Section 10163.2.

SEC. 2. Section 10163.2 of the Insurance Code is amended to read:

10163.2. (a) This section shall apply to all policies issued on or after the operative date of this section as defined herein. Except as provided in subdivision (g), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (1) the then present value of the future guaranteed benefits provided for by the policy; (2) 1 percent of either the amount of insurance, if the insurance be uniform in amount, or the

average amount of insurance at the beginning of each of the first 10 policy years; and (3) 125 percent of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (3) no nonforfeiture net level premium shall be deemed to exceed 4 percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

(b) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy, divided by the present value, at the date of issue of the policy, of an annuity of 1 per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(c) In the case of policies which cause on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(d) Except as otherwise provided in subdivision (g), the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of (1) the sum of (A) the then present value of the then future guaranteed benefits provided for by the policy and (B) the additional expense allowance, if any, over (2) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(e) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (1) 1 percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first 10 policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy;

and (2) 125 percent of the increase, if positive, in the nonforfeiture net level premium.

(f) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (1) by (2) where:

(1) It equals the sum of:

(A) The nonforfeiture net level premium applicable prior to the change times the present value of an annuity of 1 per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and

(B) The present value of the increase in future guaranteed benefits provided for by the policy, and

(2) It equals the present value of an annuity of 1 per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(g) Notwithstanding any other provisions of this section to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(h) All adjusted premiums and present values referred to in this article shall for all policies of ordinary insurance be calculated on the basis of (1) the Commissioners 1980 Standard Ordinary Mortality Table or (2) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section for policies issued in that calendar year. Provided, however, that:

(1) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in the immediately preceding calendar year.

(2) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by Section 10160, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(3) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under

the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(4) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(5) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

(6) Any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table.

(7) Any industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

(i) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125 percent of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearer one-quarter of 1 percent.

(j) Notwithstanding any other provision in this code to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(k) After the effective date of this section, any company may file with the commissioner a written notice of its election to comply with the provision of this section after a specified date before January 1, 1989, which shall be the operative date of this section for such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1989.

SEC. 3. Section 10489.1 of the Insurance Code is amended to read:

10489.1. This article and Sections 10479, 10480, 10481, 10483, 10484, 10486, and 10489 shall apply to the valuation of policies and contracts issued on or after the operative date as to policies or contracts of Article 3a (commencing with Section 10159.1) of Chapter 1 of Part

2 of Division 2 and shall also apply as provided in Section 10489.3 to the valuation of benefits purchased under group annuity and pure endowment contracts issued prior to such operative date.

SEC. 4. Section 10489.2 of the Insurance Code is amended to read:

10489.2. Except as otherwise provided in Sections 10489.3 and 10489.4, the minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation methods defined in Sections 10489.5, 10489.6, and 10489.9, 3½ percent per annum interest, except that the interest specified in subdivisions (c) and (d) may be used for certain annuity and pure endowment contracts, 4 percent per annum interest for such policies issued or contracts entered into on or after January 1, 1970, but prior to January 1, 1980, 5½ percent per annum interest may be used for single premium life insurance policies and 4½ percent per annum interest for all other such policies issued on or after January 1, 1980, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of subdivision (a) of Section 10163.1, and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date and prior to the operative date of Section 10163.2, provided that for any category of such policies issued on female risks, all modified net premiums and present values referred to in Sections 10489.5, and 10489.9 may be calculated, at the option of the insurer, according to an age not more than six years younger than the actual age of the insured; and for such policies issued on or after the operative date of Section 10163.2, as amended (i) the Commissioners 1980 Standard Ordinary Mortality Table, or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or (iii) any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of subdivision (b) of Section 10163.1, and for such policies issued on or after such operative date the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts issued

prior to the compliance date of Section 10489.3, excluding any disability and accidental death benefits in such policies—the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, ultimate, or any modification of these tables approved by the commissioner. However, the minimum standard for such contracts issued from January 1, 1968, through December 31, 1968, with commencement of benefits deferred not more than one year from date of issue, may be, at the option of the company, 4 percent per annum interest, and for contracts issued from January 1, 1969, to the compliance date of Section 10489.3, with commencement of benefits deferred not more than 10 years from date of issue and with premiums payable in one sum may be, at the option of the company, 5 percent per annum interest.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the company, any of the tables or modifications of the tables specified for individual annuity and pure endowment contracts. However, the minimum standard for annuities and pure endowments purchased or to be purchased prior to the compliance date of Section 10489.3, under group annuity and pure endowment contracts with considerations received on or after January 1, 1968, through December 31, 1968, may be, at the option of the company, 4 percent per annum interest, and for annuities and pure endowments purchased or to be purchased prior to the compliance date of Section 10489.3, under group annuity and pure endowment contracts with considerations received from January 1, 1969, to the compliance date of Section 10489.3, may be at the option of the company, 5 percent per annum interest.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies for policies issued on or after January 1, 1966, the 1959 Accidental

Death Benefits Table or any accidental death benefits table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner.

SEC. 5. Section 10489.4 of the Insurance Code is amended to read:

10489.4. (a) The interest rates used in determining the minimum standard for the valuation of all life insurance policies issued in a particular calendar year, on or after the operative date of Section 10163.2, all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982, all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts, and the net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in subdivision (b).

(b) (1) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of 1 percent:

(A) For life insurance:

$$I = .03 + W\ (R_1 - .03) + \frac{W}{2}\ (R_2 - .09)$$

(B) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$$I = .03 + W\ (R - .03)$$

Where

R_1 is the lesser of R and .09,

R_2 is the greater of R and .09,

R is the reference interest rate defined in subdivision (d) or (e) of this section, and

W is the weighting factor defined in subdivision (c) of this section.

(C) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (B), the formula for life insurance stated in (A) shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in (B) shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less.

(D) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (B) shall apply.

(E) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, the formula for single premium immediate annuities stated in (B) shall apply.

(2) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of 1 percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of the operative date of Section 10163.2.

(c) Weighting Factors.

(1) The weighting factors referred to in the formulas stated above are given in the following tables:

(A) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	*Weighting Factors*
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy.

(B) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest

contracts with cash settlement options:

.80

(C) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (B), shall be as specified in tables (i), (ii), and (iii) below, according to the rules and definitions in (iv), (v), and (vi):

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

	Weighting Factor for Plan Type		
Guarantee Duration (Years)	A	B	C
5 or less	.80	.60	.50
More than 5, but not more than 10	.75	.60	.50
More than 10, but not more than 20	.65	.50	.45
More than 20	.45	.35	.35

(ii) For annuities and guaranteed interest contracts valued on a change-in-fund basis, the factors shown in (i) above increased by:.. .15 .25 .05

(iii) For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change-in-fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by: .05 .05 .05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset

values since receipt of the funds by the insurance company, or (2) without such adjustment but in installments over five years or more, or (3) as an immediate life annuity, or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without such adjustment but in installments over five years or more, or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change-in-fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change-in-fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(d) The reference interest rate referred to in subdivision (b) of this section shall be defined as follows:

(1) For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(2) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(3) For other annuities with cash settlement options and

guaranteed interest contracts with cash settlement options, valued on a year-of-issue basis, except as stated in (2) above, with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year-of-issue basis, except as stated in (2) above, with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(5) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(6) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, except as stated in (2) above, the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(e) In the event that Moody's Corporate Bond Yield Average—Monthly Average Corporates is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners, or its successor, determines that Moody's Corporate Bond Yield Average—Monthly Average Corporates as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners, or its successor, and approved by regulation promulgated by the commissioner, may be substituted.

(f) This section shall apply to all certificates and contracts issued by a fraternal benefit society.

SEC. 6. Section 10489.5 of the Insurance Code is amended to read:

10489.5. Except as otherwise provided in Sections 10489.6 and 10489.9, reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value

of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) of (b), as follows:

(a) A net level annual premium equal to the present value, at the date of issue of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; except that such net level annual premium shall not exceed the net level annual premium, on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) A net one-year term premium for such benefits provided for in the first policy year.

Provided that for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in Section 10489.9, be the greater of the reserve as of such policy anniversary calculated as described in the first paragraph of this section and the reserve as of such policy anniversary calculated as described in the first paragraph of this section, but with (i) the value defined in subparagraph (a) of that paragraph being reduced by 15 percent of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in Sections 10489.2 and 10489.4 shall be used.

Reserves according to the commissioners reserve valuation method for (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (2) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other

than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended; (3) disability and accidental death benefits in all policies and contracts; and (4) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of the preceding paragraphs of this section, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

SEC. 7. Section 11134 of the Insurance Code is amended to read:

11134. Except as otherwise provided in Section 10489.6, reserves according to the commissioners' reserve valuation method, for the life insurance and endowment benefits of certificates providing for a uniform amount of insurance and requiring the payment of uniform rates shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such certificates, over the then present value of any future modified net rates therefor. The modified net rates for any such certificate shall be such uniform percentage of the respective contract payment for such benefits that the present value, at the date of issue of the certificate, of all such modified net rates shall be equal to the sum of the then present value of such benefits provided for by the certificate and the excess of (a) over (b), as follows:

(a) A net level annual payment equal to the present value at the date of issue, of such benefits provided for after the first certificate year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such certificate on which a payment falls due; provided, however, that such net level annual payment shall not exceed the net level annual payment on the 19-year payment whole life plan for insurance of the same amount at an age one year higher than the age at issue of such certificate.

(b) A net one-year term payment for such benefits provided for in the first certificate year.

Provided that for any certificate issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall be the greater of the reserve as of such policy anniversary calculated as described in the preceding paragraph and the reserve as of such policy anniversary calculated

as described in that paragraph, but with (i) the value defined in subdivision (a) of that paragraph being reduced by 15 percent of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in Sections 11136 and 11136.1 shall be used.

Reserves according to the commissioners' reserve valuation method for (1) life insurance certificates providing for a varying amount of insurance or requiring the payment of varying rates, (2) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, (3) disability and accidental death benefits in all certificates and contracts, and (4) all other benefits, except life insurance and endowment benefits in life insurance certificates, shall be calculated by a method consistent with the principles of the first paragraph of this section, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

SEC. 8. Section 11136 of the Insurance Code is amended to read:

11136. Except as otherwise provided in Section 10489.4, such valuation shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the insurance supervisory official of the state of domicile of the society, and the legal minimum standard of valuation shall be as follows:

(a) All benefits promised by certificates issued prior to September 22, 1952, and the rates therefor shall be valued in accordance with the provisions of law applicable thereto as of the date of issuance, but not lower than the standards and interest assumptions used in the calculation of rates for such benefits.

(b) The minimum standard for the valuation of all certificates issued after September 21, 1952, and prior to January 1, 1972, shall be 3 percent per annum interest; in the case of certificates issued on and after January 1, 1972, and prior to January 1, 1980, the minimum standard for the valuation of all such certificates shall be 4 percent per annum interest; and in the case of certificates issued on and after January 1, 1980, the minimum standard for the valuation of all single premium certificates shall be 5½ percent per annum interest and for the valuation of all other such certificates shall be 4½ percent per annum interest, and the following tables:

(1) For all ordinary certificates of life insurance issued on the

standard basis, excluding any disability and accidental death benefits in such certificates—the American Men Ultimate Table of Mortality, with Bowerman's or Davis' Extension thereof, or, at the option of the society, the Commissioners 1941 Standard Ordinary Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, using actual age of the insured for male risks and an age not more than six years younger than the actual age of the insured for female risks, and for such policies issued on or after the operative date of Section 10163.2 (i) the Commissioners 1980 Standard Ordinary Mortality Table, or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or (iii) any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(2) For all industrial life insurance certificates issued on the standard basis, excluding any disability and accidental death benefits in such certificates—the 1941 Standard Industrial Mortality Table, for such certificates issued prior to the operative date of Section 10163.2, and for such policies issued on or after such operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(3) For annuity and pure endowment certificates, excluding any disability and accidental death benefits in such certificates—the 1937 Standard Annuity Mortality Table, or the Annuity Mortality Table for 1949 Ultimate, or the Individual Annuity Mortality Table for 1971, or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of any of these tables approved by the commissioner.

(4) For disability benefits in or supplementary to ordinary certificates—Hunter's Disability Table or the Class 3 Disability Table (1926), modified to conform to the contractual waiting period, or the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries with due regard to the type of benefit, or the 1964 Commissioners Disability Table, or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies. Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance certificates.

(5) For accidental death benefits in or supplementary to certificates—The Inter-Company Double Indemnity Mortality Table or the 1959 Accidental Death Benefits Table, or any accidental death benefits table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies. Any such table shall be combined with a mortality table permitted for calculating the reserves for life insurance certificates.

(6) For temporary accident and health benefits in or supplementary to certificates—Class 3 Disability Table (1926) with Conference Modifications or the 1964 Commissioners Disability Table, or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(7) For life insurance issued upon the substandard basis and other special benefits—such tables as may be approved by the commissioner.

(c) The commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard prescribed. Whenever the mortality experience under the certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of three consecutive years, the commissioner may require additional reserves when in his judgment deemed necessary on account of such certificates.

(d) Notwithstanding the provisions of subdivisions (a) and (b), any society, with the consent of the insurance supervisory official of the state of domicile of the society, and under such conditions, if any, which he may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any insured member shall not be affected thereby.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid confusion, clarify the provisions of Chapter 767 of the Statutes of 1981, and conform to the provisions of the 1980 model valuation and nonforfeiture laws it is necessary that this act take immediate effect.

CHAPTER 941

An act to repeal and add Article 4 (commencing with Section 500) of Chapter 2 of Division 3 of, and to repeal Section 755 of, the Harbors and Navigation Code, relating to vessels.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Article 4 (commencing with Section 500) of Chapter 2 of Division 3 of the Harbors and Navigation Code is repealed.

SEC. 2. Article 4 (commencing with Section 500) is added to Chapter 2 of Division 3 of the Harbors and Navigation Code, to read:

Article 4. Boaters Lien Law

500. This article shall be known and may be cited as the "Boaters Lien Law".

501. As used in this article:

(a) "Department" means the Department of Motor Vehicles or any successor agency thereto which registers vehicles.

(b) "Mail" means first-class mail, postage prepaid, unless registered mail is specified. Registered mail includes certified mail.

(c) "Services" means the making of repairs or performing labor upon or to, and the furnishing of supplies or materials for, any vessel or any trailer used in connection with a vessel.

(d) "Storage" means the safekeeping, mooring, berthage, wharfage, or anchorage of a vessel and the providing of parking space for any trailer used in connection with the vessel.

(e) "Vessel" means every description of watercraft, other than a seaplane on the water or a floating home, used or capable of being used as a means of transportation on the water and required to be registered, excluding any vessel which has a valid marine document issued by the United States or any agency thereof. For the purposes of this article, "vessel" includes any trailer used in connection with the vessel which is in the possession of the lienholder at the time the lien arises.

501.3. The time a notice or statement is given or sent, unless otherwise expressly provided, means the time a written notice to a person is deposited in the United States mails; or the time any other written notice is personally delivered to the recipient.

501.5. The possessory vessel lien procedures described by the provisions of this article shall supersede any local ordinance and shall provide the exclusive means of enforcing these liens. Nothing in this article shall be construed as affecting any maritime lien cognizable under any federal law.

502. (a) Every person has a lien dependent upon possession of the vessel for the compensation to which he or she is legally entitled for services rendered to or storage of any vessel subject to registration with the Department of Motor Vehicles. The lien shall arise at the time a written statement of lien is sent to the registered owner of the vessel which specifies the charges for services or storage rendered and states that the vessel is subject to sale pursuant to the California Boater's Lien Law.

(b) Notwithstanding subdivision (a), no lien provided by this section for storage or service provided upon the request of any person other than the legal owner as shown on the registration certificate of the vessel shall be valid against the interest of the legal owner to the extent that the lien exceeds seven hundred fifty dollars ($750) unless the person performing such storage or service obtains the consent of the legal owner to the amount of the excess. The legal owner may limit his or her consent to a specified dollar amount or period of time. The lien claimant shall give actual notice in writing, prior to exceeding such amount, either by personal service or by registered mail to the legal and registered owner or owners as named and at the addresses as shown on the registration certificate, on a standard form provided by the department, containing a description of the storage or services, or both, a description and registration number of the vessel, the name of the registered owner or owners, the dollar amount or rate of the charges for the storage or services, and a statement in boldface type that, with respect to storage charges, consent of the legal owner shall be presumed unless the legal owner notifies the lien claimant within 15 days of receipt of the request for consent that he or she declines to consent to such storage.

(c) Notwithstanding subdivision (b), any claim for the cost of services may exceed the estimate given therefor by an amount not in excess of 10 percent thereof and the lien of the lien claimant shall be valid against the legal owner to the full amount of such excess to the same extent as would be a lien for the original estimate.

(d) With respect to claims for storage charges, a legal owner shall be presumed to consent to storage charges if he or she fails to respond to the request for consent set forth in subdivision (b) within 15 days after receipt thereof, such response to be addressed to the lien claimant at the address stated in the request for consent. In addition, consent in all cases is presumed for the 30-day period immediately following the giving of the request for consent notice.

(e) The legal owner may, upon declining consent, remove the vessel from the lien claimant only upon satisfying the lien of the lien claimant.

(f) Any lien arising under this section shall be extinguished, and no lien sale shall be conducted unless, 60 days after the lien arises, the lienholder does either of the following:

(1) Applies to the department for an authorization to conduct a lien sale.

(2) Files an action on the claim in court.

(g) Nothing in this section shall impair any rights or remedies which are otherwise available to the lien claimant against the registered owner under any other provisions of law.

503. (a) A lienholder shall apply to the department for the issuance of an authorization to conduct a lien sale pursuant to the provisions of this section for any vessel with a value determined to be over one thousand five hundred dollars ($1,500). A fee shall be charged by the department and may be recovered by the lienholder if a lien sale is conducted or if the vessel is redeemed. The application shall be executed under penalty of perjury and shall include all of the following information:

(1) A description of the vessel, including make, hull identification number, and state of registration, to the extent available.

(2) The names and addresses of the registered and legal owners of the vessel, if ascertainable from the registration certificate within the vessel, and the name and address of any person whom the lienholder knows or reasonably should know claims a proprietary interest in the vessel.

(3) A statement of the amount of the lien and the facts which give rise to the lien. The statement shall include, as a separate item, an estimate of any additional storage costs accruing pending the lien sale.

(b) Upon receipt of an application made pursuant to subdivision (a), the department shall within 15 days thereafter do both of the following:

(1) Notify the vessel registry agency of a foreign state of the pending lien sale, if the vessel bears indicia of registration in that state.

(2) By mail, send a notice, a copy of the application, and a return envelope preaddressed to the department to the registered and legal owners at their addresses of record with the department, and to any other person whose name and address is listed in the application.

(c) The notice required pursuant to subdivision (b) shall include all of the following statements:

(1) An application has been made with the department for authorization to conduct a lien sale.

(2) Each person to whom notice is sent pursuant to subdivision (b) is entitled to a hearing in court if that person so desires.

(3) If a hearing in court is desired, a declaration of opposition, signed under penalty of perjury, is required to be signed and returned to the department within 15 days of the date that the notice required pursuant to subdivision (b) was mailed.

(4) If the declaration of opposition is signed and returned to the department, the lienholder will be allowed to sell the vessel only if he or she obtains a court judgment or a subsequent release from the declarant.

(5) If a court action is filed, the declarant will be served by mail with legal process in the court proceedings at the address shown on the declaration of opposition and may appear to contest the claim.

(6) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(d) If the department receives the declaration of opposition in the time provided, the department shall notify the lienholder within 16 days of the receipt of the declaration of opposition that a lien sale shall not be conducted unless the lienholder files an action in court within 60 days of the notice. A lien sale of the vessel shall not be conducted unless judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his or her interest in the vessel.

(e) Service of legal process on the declarant, with return receipt requested signed by the declarant or an authorized agent of the declarant at the address shown on the declaration of opposition, shall be effective. Return of a declaration of opposition shall constitute consent by the declarant to service of legal process for the desired court hearing upon him or her in the foregoing manner. Notwithstanding subdivision (d) of Section 415.3 of the Code of Civil Procedure, if the lienholder has attempted service upon declarant by that method at the address shown on the declaration of opposition and the mail has been returned unclaimed, the department shall promptly authorize the sale.

(f) Upon receipt of authorization to conduct the lien sale, the lienholder shall do all of the following:

(1) At least 10 days, but not more than 30 days, prior to the lien sale, not counting the day of the sale, give notice of the sale by advertising once in a newspaper of general circulation published in the county in which the vessel is located. If there is no newspaper published in the county, notice shall be given by posting a notice of sale form in three of the most public places in the area in which the vessel is located and at the place where the vessel is to be sold for 10 consecutive days prior to and including the day of the sale.

(2) Send a notice of pending lien sale 20 days prior to the sale, but not counting the day of sale, by mail with return receipt requested, to each of the following:

(A) The registered and legal owners of the vessel, if registered in this state.

(B) All persons known to have an interest in the vessel.

(C) The department.

(g) Upon receipt of the notice, the department shall mark its records and thereafter notify any person having a proprietary interest in the vessel that there is a pending lien sale and that title will not be transferred until the lien is satisfied or released.

(h) All notices required by this section, including the notice forms prescribed by the department, shall specify the make, hull identification number, and state of registration, if available, and the specific date, exact time, and place of sale.

504. (a) For vessels with a value determined to be one thousand five hundred dollars ($1,500) or less, the department shall promptly furnish the lienholder with the names and addresses of the registered

and legal owners of record.

(b) The lienholder shall, immediately upon receipt of the names and addresses, send by mail, with return receipt requested, a completed notice of pending lien sale form, a blank declaration of opposition form, and a return envelope preaddressed to the department, to the registered owner and legal owner at their addresses of record with the department, to any other person known to have a proprietary interest in the vessel, and to the department.

(c) Upon receipt of the notice, the department shall mark its records and thereafter notify any person having a proprietary interest in the vessel that there is a pending lien sale and that title will not be transferred until the lien is satisfied or released.

(d) All notices shall be signed under penalty of perjury and shall include all of the following information and statements:

(1) A description of the vessel, including make, identification number, and state of registration, to the extent available.

(2) The specific date, exact time, and place of sale, which shall be set not less then 35 days, but not more than 60 days, from the date of mailing.

(3) The names and addresses of the registered and legal owners of the vessel and any other person known to have an interest in the vessel.

(4) All of the following statements:

(A) The amount of the lien and the facts which give rise to the lien. The statement shall include, as a separate item, an estimate of any additional storage costs accruing pending the lien sale.

(B) The person has a right to a hearing in court.

(C) If a court hearing is desired, a declaration of opposition signed under penalty of perjury is required to be signed and returned to the department within 15 days of the date the notice of pending lien sale was mailed.

(D) If the declaration of opposition is signed and returned, the lienholder will be allowed to sell the vessel only if he or she obtains a court judgment or if he or she obtains a subsequent release from the declarant.

(E) If a court action is filed, the declarant will be served by mail with legal process in the court proceedings at the address shown on the declaration of opposition and may appear to contest the claim.

(F) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(e) If the department receives the completed declaration of opposition within the time provided, the department shall notify the lienholder within 16 days that a lien sale shall not be conducted unless the lienholder files an action in court within 20 days of the notice and judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his interest in the vessel.

(f) Service on the declarant by mail with return receipt requested, signed by the declarant or an authorized agent of the

declarant at the address shown on the declaration of opposition, shall be effective. Return of a declaration of opposition shall constitute consent by the declarant to service of legal process for the desired court hearing upon him or her in the foregoing manner. If the lienholder has attempted service upon the declarant by that method at the address shown on the declaration of opposition and the mail has been returned unclaimed, the lienholder may proceed with the sale.

505. (a) A registered or legal owner of a vessel may release any interest in the vessel after the lien has arisen. The release shall be dated when signed and a copy shall be given at the time the release is signed to the person releasing the interest.

(b) The release shall be in at least 12-point type and shall contain all of the following information in simple, nontechnical language:

(1) A description of the vessel, including the make, the identification number, and the state of registration, to the extent available.

(2) The names and addresses of the registered and legal owners of record with the department, to the extent available.

(3) A statement of the amount of the lien and the facts which give rise to the lien.

(4) A statement that the person releasing the interest understands that (i) he or she has a legal right to a hearing in court prior to any sale of the vessel to satisfy the lien and (ii) he or she is giving up the right to appear to contest the claim of the lienholder.

(5) A statement that (i) the person releasing the interest gives up any interest he or she may have in the vessel and (ii) he or she is giving the lienholder permission to sell the vessel.

(c) The release required by this section shall be filed with the department in connection with any transfer of interest in a vessel following a lien sale.

505.5. (a) Whenever the lien upon any vessel is lost by reason of the loss of possession through trick, fraud, or device, the repossession of the vessel by the former lienholder claimant revives the lien but any lien so revived is subordinate to any right, title, or interest of any person under any sale, transfer, encumbrance, lien, or other interest acquired or secured in good faith and for value between the time of the loss of possession and the time of repossession.

(b) It is a misdemeanor for any person to obtain possession of any vessel or any part thereof subject to a lien pursuant to the provisions of this chapter by trick, fraud, or device.

(c) It is a misdemeanor for any person claiming a lien on a vessel to knowingly violate any provisions of this article.

506. No lien sale shall be undertaken pursuant to Section 503 or 504 unless the vessel has been available for inspection at a location easily accessible to the public for at least one hour before the sale and is at the place of sale at the time and date specified on the notice of sale. Sealed bids shall not be accepted. The lienholder shall conduct the sale in a commercially reasonable manner.

506.5. Within 10 days after the sale of any vessel pursuant to the provisions of Section 503 or 504, the legal or registered owner may redeem the vessel upon the payment of the amount of the lien, all costs and expenses of the lien, together with interest on that sum at the legal rate from the due date thereof until the repayment. If the vessel is not redeemed, all lien sale documents required by the department to effect transfer of title shall then be completed and delivered to the buyer.

507. At the time a lienholder applies to the department to conduct a sale under the provisions of Section 504, the lienholder shall submit with the application a declaration by a licensed yacht and ship broker of the fair market value of the described vessel at a specific date within 30 days of that submission. The opinion need not be based upon a marine survey, but shall be based on a physical inspection of the vessel. No cause of action shall lie against the declarant on account of the opinion given.

507.5. The proceeds of a vessel lien sale shall be disposed of as follows:

(a) The amount necessary to discharge the lien and the actual cost of selling the vessel shall be paid to the lienholder. Actual cost of sale shall include any fees charged by the department, publication fees, postage and service of notices, whether incurred as a result of a sale or redemption by the registered or legal owner without a sale. The actual cost of sale shall not exceed one hundred dollars ($100) for a vessel without a trailer and one hundred twenty-five dollars ($125) for a vessel with a trailer, exclusive of the charges of the department.

(b) The balance, if any, shall be forwarded to the department within 15 days of any sale. Within 30 days thereafter, the department shall send notice of the receipt of the funds, if the amount thereof exceeds ten dollars ($10), to the legal and registered owners at the most current addresses shown in the department's records.

(c) Any person claiming an interest in the vessel may file a claim with the department for any portion of the funds forwarded to the department pursuant to subdivision (b). Upon determination of the department that the claimant is entitled to a portion of those funds, the department shall pay any entitled amount which does not exceed the balance of the funds remaining on deposit with the department that pertain to the vessel. The department shall not honor any claim unless the claim has been filed within three years of the date the funds were received. At the end of each fiscal year the department shall deposit in the Harbors and Watercraft Revolving Fund all funds held by it for which no claim was filed within the three-year period.

508. Any lien provided for in this article for repairs, labor, supplies, or materials, or for storage or safekeeping of a vessel may be assigned by written instrument accompanied by delivery of possession of the vessel subject to the lien, and the assignee may exercise the rights of a lienholder as provided in this article. Any lienholder assigning a lien as authorized in this section shall at the time of assigning the lien give written notice of the assignment either

by personal delivery of by certified mail, to the registered and legal owners of the vessel, indicating the name and address of the person to whom the lien is assigned.

508.5. All forms required pursuant to this article shall be prescribed by the department. Language used in the notices and declarations shall be simple and nontechnical.

509. No lien shall attach to any personal property in or on the vessel except that which is carried on the vessel for lifesaving, safety, mooring, and operating purposes. Personal property not subject to lien shall be given to the registered owner or the owner's authorized agent upon demand.

SEC. 3. Section 755 of the Harbors and Navigation 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 942

An act to amend Sections 6401, 7200.5, and 7201 of the Elections Code, relating to elections.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 6401 of the Elections Code is amended to read:

6401. (a) No declaration of candidacy for a partisan office or for membership on a county central committee shall be filed, by a candidate unless (1) at the time of presentation of the declaration and continuously for not less than three months immediately prior to that time, or for as long as he has been eligible to register to vote in the state, the candidate is shown by his affidavit of registration to be affiliated with the political party the nomination of which he seeks, and (2) the candidate has not been registered as affiliated with a qualified political party other than that political party the nomination of which he seeks within 12 months, or, in the case of an election governed by Chapter 7 (commencing with Section 7200), within three months immediately prior to the filing of the declaration.

(b) The county clerk shall attach a certificate to the declaration

of candidacy showing the date on which the candidate registered as intending to affiliate with the political party the nomination of which he seeks, and indicating that the candidate has not been affiliated with any other qualified political party for the period specified in subdivision (a) immediately preceding the filing of the declaration. The provisions of this section shall not apply to declarations of candidacy filed by a candidate of a political party participating in its first direct primary election subsequent to its qualification as a political party pursuant to the provisions of Section 6430.

SEC. 2. Section 7200.5 of the Elections Code is amended to read:

7200.5. A special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of Assembly shall be conducted on a Tuesday at least 112 days, but not more than 119 days, following the issuance of an election proclamation by the Governor pursuant to Section 1773 of the Government Code, except that any such special election may be conducted within 180 days following the proclamation in order that the election or the primary election may be consolidated with the next regularly scheduled statewide election or local election occurring wholly or partially within the same territory in which such vacancy exists, provided that the voters eligible to vote in the local election comprise at least 50 percent of all the voters eligible to vote on the vacancy.

In no event may a special election or a primary election be conducted on the day after a state holiday.

SEC. 3. Section 7201 of the Elections Code is amended to read:

7201. A special primary election shall be held in the district in which the vacancy occurred on the eighth Tuesday or, if the eighth Tuesday is the day of a state holiday, the ninth Tuesday preceding the day of the special general election at which the vacancy is to be filled. Candidates at the primary election shall be nominated in the manner set forth in Chapter 5 (commencing with Section 6400) of Division 5 of this code, except that nomination papers shall not be circulated more than 63 days before the primary election, shall be left with the county clerk for examination not less than 43 days before the primary election, and shall be filed with the Secretary of State not less than 39 days before the primary election.

Notwithstanding the provisions of Section 1002, applications for absent voter ballots may be submitted not more than 25 days before the primary election, except that the provisions of Section 1002 shall apply if the special election or special primary election is consolidated with a statewide election. Applications received by the clerk prior to the 25th day shall not be returned to the sender, but shall be held by the clerk and processed by him following the 25th day prior to the election in the same manner as if received at that time.

CHAPTER 943

An act to amend Section 1031 of, and to add Section 1031.5 to, the Government Code, relating to peace officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 1031 of the Government Code is amended to read:

1031. Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

(a) Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship.

(b) Be at least 18 years of age.

(c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose any criminal record.

(d) Be of good moral character, as determined by a thorough background investigation.

(e) Be a high school graduate or pass the general education development test indicating high school graduation level; provided that this subdivision shall not apply to any public officer or employee who was employed, prior to the effective date of the amendment of this section made at the 1971 Regular Session of the Legislature, in any position declared by law prior to the effective date of such amendment to be peace officer positions.

(f) Be found, after examination by a licensed physician and surgeon, to be free from any physical, emotional, or mental condition which might adversely affect his exercise of the powers of a peace officer.

This section shall not be construed to preclude the adoption of additional or higher standards, including age.

SEC. 2. Section 1031.5 is added to the Government Code, to read:

1031.5. (a) Any person employed by a governmental agency on the effective date of this section as a peace officer or a peace officer trainee, or who, prior to the effective date of this section, had applied to fill a position as a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is not subject to the requirement of subdivision (a) of Section 1031 prior to its amendment at the 1981–82 Regular Session of the Legislature, provided that any person qualifying for this exemption shall, as soon as legally possible, apply for and meet all of the requirements for United States citizenship specified in existing law, and shall be subject to subdivisions (c) and (d).

(b) Any permanent resident alien who applies for employment as

a peace officer shall have applied for citizenship at least one year prior to his or her application for employment, except that the one-year requirement shall not be applicable to any person who applies for employment prior to his or her 19th birthday.

(c) Any permanent resident alien who is employed as a peace officer shall diligently cooperate with the Immigration and Naturalization Service in the processing of his or her application for citizenship and shall be disqualified from holding that position if, three years after the filing of his or her application for employment, the person has not obtained citizenship due to his or her failure to cooperate in the processing of the application for citizenship.

(d) Any permanent resident alien who is employed as a peace officer shall be disqualified from holding that position if his or her application for citizenship is denied.

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 recent United States Supreme Court decision upholding a California statute which requires that peace officers be United States citizens will result in hardship for certain peace officers and other law enforcement employees presently employed unless this act takes effect immediately.

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, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 944

An act to amend Section 3301 of the Government Code, relating to public safety officers.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 3301 of the Government Code is amended to read:

3301. For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31 except subdivisions (f) and (i), 830.4 except subdivision (f), and 830.5 of the Penal Code.

The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that such stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California.

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. 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 945

An act to amend Sections 39670, 39671, 39672, 39673, and 72330 of the Education Code, relating to police departments.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 39670 of the Education Code is amended to read:

39670. The governing board of any school district may establish a security department or school district police department under the supervision of a school district chief of security, chief of police, or other official designated by the superintendent of the school district, and employ, in accordance with the provisions of Chapter 5 (commencing with Section 45100) of Part 25 of Division 3 of this title

such personnel as may be necessary to ensure the safety of school district personnel and pupils, and the security of the real and personal property of the school district. It is the intention of the Legislature in enacting this section that a school district security or police department shall be supplementary to city and county law enforcement agencies and shall under no circumstances be vested with general police powers.

SEC. 2. Section 39671 of the Education Code is amended to read:

39671. Persons employed and compensated as members of a police department of a school district, when appointed and duly sworn, are peace officers, as defined by Section 830.4 of the Penal Code, only for the purpose of carrying out the duties of their employment.

SEC. 3. Section 39672 of the Education Code is amended to read:

39672. Persons employed and compensated as members of a security or police department of a school district shall be supplied with and authorized to wear a badge bearing the name of the school district. The employee shall carry a suitable identification card bearing his or her photograph and signature and the signature of the superintendent of the school district. The employee shall also carry such other identification data as may be required by local law enforcement agencies. The governing board may direct the wearing of a distinctive uniform and shall prescribe same. The costs of required uniforms, equipment, identification badges, and cards shall be borne by the district.

SEC. 4. Section 39673 of the Education Code is amended to read:

39673. The governing board of a school district which establishes a security or police department may provide and maintain motor vehicles for the use of the department. Any vehicle, when operated in the performance of his or her duties by any member of the police department, is an authorized emergency vehicle and may be equipped and operated as such as provided by the Vehicle Code.

SEC. 5. Section 72330 of the Education Code is amended to read:

72330. The governing board of a community college district may establish a community college police department, under the supervision of a community college chief of police, and employ, in accordance with the provisions of Chapter 4 (commencing with Section 88000) of Part 51 such personnel as may be necessary to enforce the law on or near the campus of the community college and on or near other grounds or properties owned, operated, controlled, or administered by the community college or by the state acting on behalf of the community college. Each campus of a multicampus community college district may designate a chief of police.

Persons employed and compensated as members of a community college police department, when so appointed and duly sworn, are peace officers as defined by Section 830.31 of the Penal Code.

CHAPTER 946

An act to amend Section 1045 of the Evidence Code, relating to records disclosure.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 1045 of the Evidence Code is amended to read:

1045. (a) Nothing in this article shall be construed to affect the right of access to records of complaints, or investigations of complaints, or discipline imposed as a result of such investigations, concerning an event or transaction in which the peace officer participated, or which he perceived, and pertaining to the manner in which he performed his duties, provided that such information is relevant to the subject matter involved in the pending litigation.

(b) In determining relevance the court shall examine the information in chambers in conformity with Section 915, and shall exclude from disclosure:

(1) Information consisting of complaints concerning conduct occurring more than five years before the event or transaction which is the subject of the litigation in aid of which discovery or disclosure is sought.

(2) In any criminal proceeding the conclusions of any officer investigating a complaint filed pursuant to Section 832.5 of the Penal Code.

(3) Facts sought to be disclosed which are so remote as to make disclosure of little or no practical benefit.

(c) In determining relevance where the issue in litigation concerns the policies or pattern of conduct of the employing agency, the court shall consider whether the information sought may be obtained from other records maintained by the employing agency in the regular course of agency business which would not necessitate the disclosure of individual personnel records.

(d) Upon motion seasonably made by the governmental agency which has custody or control of the records to be examined or by the officer whose records are sought, and upon good cause showing the necessity thereof, the court may make any order which justice requires to protect the officer or agency from unnecessary annoyance, embarrassment or oppression.

(e) The court shall, in any case or proceeding permitting the disclosure or discovery of any peace officer records requested pursuant to Section 1043, order that the records disclosed or discovered may not be used for any purpose other than a court proceeding pursuant to applicable law.

CHAPTER 947

An act to add Section 2800.2 to, and to repeal and add Section 2800.1 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 2800.1 of the Vehicle Code is repealed.

SEC. 2. Section 2800.1 is added to the Vehicle Code, to read:

2800.1. Any person who, while operating a motor vehicle and with the intent to evade, willfully flees or otherwise attempts to elude a pursuing peace officer's motor vehicle, is guilty of a misdeameanor if all of the following conditions exist:

(a) The peace officer's motor vehicle is exhibiting at least one lighted red lamp visible from the front and the person either sees or reasonably should have seen the lamp.

(b) The peace officer's motor vehicle is sounding a siren as may be reasonably necessary.

(c) The peace officer's motor vehicle is distinctively marked.

(d) The peace officer's motor vehicle is operated by a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, and that peace officer is wearing a distinctive uniform.

SEC. 3. Section 2800.2 is added to the Vehicle Code, to read:

2800.2. Whenever willful flight or attempt to elude a pursuing peace officer in violation of Section 2800.1 proximately causes death or bodily injury to any person, the person driving the vehicle, upon conviction, shall be punished by imprisonment in the state prison, 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 one hundred seventy dollars ($170) nor more than five hundred dollars ($500), or by both that fine and imprisonment.

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 948

An act to amend Section 12403.7 of the Penal Code, relating to tear gas.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 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."

(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 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, except that if such use is against a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, engaged in the performance of his or her official duties and the person committing the offense knows or reasonably should know that the victim is a peace officer, the offense is punishable by imprisonment in a state prison for 16 months or two or three years 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.

SEC. 1.5. 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 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, except that if such use is against a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, engaged in the performance of his or her official duties and the person committing the offense knows or reasonably should know that the victim is a peace officer, the offense is punishable by imprisonment in a state prison for 16 months or two or three years or by fine of 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.

SEC. 2. It is the intent of the Legislature, if this bill and Assembly Bill 2419 are both chaptered and become effective January 1, 1983, both bills amend Section 12403.7 of the Penal Code, and this bill is chaptered after Assembly Bill 2419, that the amendments to Section 12403.7 proposed by both bills be given effect and incorporated in Section 12403.7 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 2419 are both chaptered and become effective January 1, 1983, both amend Section 12403.7, and this bill is chaptered after Assembly Bill 2419, 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 949

An act to amend Section 189 of, to add Section 12022.2 to, and to add Chapter 2.6 (commencing with Section 12320) to Title 2 of Part 4 of, the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 189 of the Penal Code is amended to read:

189. All murder which is perpetrated by means of a destructive device or explosive, knowing use of ammunition designed primarily to penetrate metal or armor, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or which

is committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, mayhem, or any act punishable under Section 288, is murder of the first degree; and all other kinds of murders are of the second degree.

As used in this section, "destructive device" shall mean any destructive device as defined in Section 12301, and "explosive" shall mean any explosive as defined in Section 12000 of the Health and Safety Code.

To prove the killing was "deliberate and premeditated," it shall not be necessary to prove the defendant maturely and meaningfully reflected upon the gravity of his or her act.

SEC. 2. Section 12022.2 is added to the Penal Code, to read:

12022.2. Notwithstanding any other provision of law, any person who, while armed with a firearm in the commission or attempted commission of any felony, has in his or her immediate possession ammunition for such firearm designed primarily to penetrate metal or armor, shall upon conviction of such felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony, be punished by an additional term of three years.

SEC. 3. Chapter 2.6 (commencing with Section 12320) is added to Title 2 of Part 4 of the Penal Code, to read:

CHAPTER 2.6. AMMUNITION DESIGNED PRIMARILY TO PENETRATE METAL OR ARMOR

12320. Any person, firm, or corporation who, within this state knowingly possesses any handgun ammunition designed primarily to penetrate metal or armor is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for a term not to exceed one year, or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

12321. Any person, firm, or corporation who, within this state, manufactures, imports, sells, offers to sell, or knowingly transports any handgun ammunition designed primarily to penetrate metal or armor is guilty of a felony and upon conviction thereof shall be punished by imprisonment in state prison or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

12322. Nothing in this chapter shall prohibit the sale to, purchase by, possession of, or use of any ammunition by any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his employment, or any police agency or forensics laboratory or any person who is the holder of a valid permit issued pursuant to Section 12305 or 12306.

12323. As used in this chapter, "handgun ammunition" means ammunition principally for use in pistols and revolvers as defined in

Section 12001, notwithstanding that the ammunition may also be used in some rifles.

12324. Nothing in this chapter shall prohibit the possession, importation, sale, attempted sale, or transport of ammunition from which the propellant has been removed and the primer has been permanently deactivated.

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:

The availability of handgun ammunition designed primarily to penetrate metal or armor which, according to recent tests, can penetrate soft body armor poses a life-threatening situation to peace officers, public officials, and other persons.

SEC. 6. 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 950

An act to amend Section 189 of, to add Section 12022.2 to, and to add Chapter 2.6 (commencing with Section 12320) to Title 2 of Part 4 of, the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 189 of the Penal Code is amended to read:

189. All murder which is perpetrated by means of a destructive device or explosive, knowing use of ammunition designed primarily to penetrate metal or armor, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or which is committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, mayhem, or any act punishable under Section 288, is murder of the first degree; and all other kinds of

murders are of the second degree.

As used in this section, "destructive device" shall mean any destructive device as defined in Section 12301, and "explosive" shall mean any explosive as defined in Section 12000 of the Health and Safety Code.

To prove the killing was "deliberate and premeditated," it shall not be necessary to prove the defendant maturely and meaningfully reflected upon the gravity of his or her act.

SEC. 2. Section 12022.2 is added to the Penal Code, to read:

12022.2. Notwithstanding any other provision of law, any person who, while armed with a firearm in the commission or attempted commission of any felony, has in his or her immediate possession ammunition for such firearm designed primarily to penetrate metal or armor, shall upon conviction of such felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony, be punished by an additional term of three years.

SEC. 3. Chapter 2.6 (commencing with Section 12320) is added to Title 2 of Part 4 of the Penal Code, to read:

CHAPTER 2.6. AMMUNITION DESIGNED PRIMARILY TO PENETRATE METAL OR ARMOR

12320. Any person, firm, or corporation who, within this state knowingly possesses any handgun ammunition designed primarily to penetrate metal or armor is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for a term not to exceed one year, or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

12321. Any person, firm, or corporation who, within this state, manufactures, imports, sells, offers to sell, or knowingly transports any handgun ammunition designed primarily to penetrate metal or armor is guilty of a felony and upon conviction thereof shall be punished by imprisonment in state prison, or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

12322. Nothing in this chapter shall prohibit the sale to, purchase by, possession of, or use of any ammunition by any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his employment, or any police agency or forensic laboratory or any person who is the holder of a valid permit issued pursuant to Section 12305 or 12306.

12323. As used in this chapter, "handgun ammunition" means ammunition principally for use in pistols and revolvers, as defined in Section 12001, notwithstanding that the ammunition may also be used in some rifles.

12324. Nothing in this chapter shall prohibit the possession,

importation, sale, attempted sale, or transport of ammunition from which the propellant has been removed and the primer has been permanently deactivated.

12325. Nothing in this chapter shall prohibit the manufacture of ammunition under contracts approved by agencies of the state or federal government.

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:

The availability of handgun ammunition designed primarily to penetrate metal or armor which, according to recent tests, can penetrate soft body armor poses a life-threatening situation to peace officers, public officials, and other persons.

SEC. 6. 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 951

An act to amend Section 6362.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 6362.5 of the Revenue and Taxation Code is amended to read:

6362.5. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale or lease of, and the storage, use, or other consumption in this state of, master tapes or master records embodying sound, except amounts subject to the taxes imposed by other provisions of this part paid by a customer in connection with the customer's production of master tapes or master records to a recording studio for the tangible elements of such master records or

master tapes.

(b) For purposes of this section:

(1) "Master tapes or master records embodying sound" means tapes, records, and other devices utilized by the recording industry in making recordings embodying sound.

(2) "Amounts paid for the furnishing of the tangible elements" shall not include any amounts paid for the copyrightable, artistic or intangible elements of such master tapes or master records, whether designated as royalties or otherwise including, but not limited to, services rendered in producing, fabricating, processing, or imprinting tangible personal property or any other services or production expenses in connection therewith which may otherwise be construed as constituting "sale" under Section 6006.

(3) "Recording studio" is a place where, by means of mechanical or electronic devices, voices, music, or other sounds are transmitted to tapes, records, or other devices capable of reproducing sound.

SEC. 2. The Legislature finds and declares that Section 1 of 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. 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.

CHAPTER 952

An act to amend Section 1050 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 1050 of the Penal Code is amended to read:

1050. (a) The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end the Legislature finds that the criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant. It is therefore recognized that both the people and the defendant have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both the prosecution and the defense, to expedite such proceedings to the greatest degree that is consistent with the ends of justice. In accordance with this policy, criminal cases shall be given precedence over, and set for trial and

heard without regard to the pendency of, any civil matters or proceedings.

(b) To continue any hearing in a criminal proceeding, including the trial, a written notice must be filed within two court days of the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, unless the court for good cause entertains an oral motion for continuance. Continuances shall be granted only upon a showing of good cause. The convenience of the parties is not in and of itself good cause.

(c) When deciding whether or not good cause for a continuance exists, the court shall consider prior commitments of peace officer witnesses in the same manner as it would consider prior commitments of lay witnesses.

(d) Upon a showing that the attorney of record at the time of the defendant's first appearance in the superior court is a Member of the Legislature of this state and that the Legislature is in session or that a legislative interim committee of which the attorney is a duly appointed member is meeting or is to meet within the next seven days, the defendant shall be entitled to a reasonable continuance not to exceed 30 days.

(e) A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the facts proved which require the continuance shall be entered upon the minutes of the court.

(f) Whenever it shall appear that any court may be required, because of the condition of its calendar, to dismiss an action pursuant to Section 1382 of this code, the court must immediately notify the Chairman of the Judicial Council.

CHAPTER 953

An act to add Section 26228 to the Government Code, relating to law enforcement services.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 26228 is added to the Government Code, to read:

26228. (a) Except as provided by Section 1112 of the Labor Code, the board of supervisors of any county may contract on behalf of the sheriff of that county to provide supplemental law enforcement services to private individuals or private entities to preserve the peace at special events or occurrences that happen on an occasional

basis. Contracts entered into under the authority of this section shall provide for full reimbursement to the county of the actual costs of providing such services, as determined by the county auditor or auditor-controller.

(b) The services provided under this section shall be rendered by regularly appointed full-time peace officers, as defined in Section 830.1 of the Penal Code or as negotiated with the respective certified employee organizations.

(c) Peace officer rates of pay shall be governed by a memorandum of understanding.

(d) A contract entered into pursuant to this section shall encompass only law enforcement duties and not services authorized to be provided by a private patrol operator, as defined in Section 7521 of the Business and Professions Code.

(e) Contract law enforcement services permitted under this section shall not reduce the normal and regular on-going service that the county, or agency of the county, would otherwise provide if the county did not contract for any law enforcement services allowed by this section.

CHAPTER 954

An act to amend Section 12078 of the Penal Code, and to amend Section 25258 of the Vehicle Code, relating to peace officers.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 12078 of the Penal Code is amended to read:

12078. The preceding provisions of this article do not apply to sales of concealable firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties, nor to sales of concealable firearms made to authorized representatives of cities, cities and counties, counties, state or federal governments for use by such governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser is employed, identifying the purchaser as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase. The certification shall be delivered to the seller at the time of purchase and the purchaser shall identify himself as the person authorized in such certification. On the day the sale is made, the dealer shall forward by prepaid mail to the Department of Justice a report of such sale and the type of

information concerning the buyer and the firearm sold as is indicated in Section 12077.

SEC. 2. Section 25258 of the Vehicle Code is amended to read:

25258. (a) An authorized emergency vehicle operating under the conditions specified in Section 21055 may display a flashing white light from a gaseous discharge lamp designed and used for the purpose of controlling official traffic control signals.

(b) An authorized emergency vehicle used by a peace officer, as defined in Section 830.1, subdivision (a), (b), (d), (e), (g), or (h) of Section 830.2, subdivision (c), (g), (h), or (i) of Section 830.31, and subdivision (j) or (k) of Section 830.4, in the performance of his duties may in addition display a steady or flashing blue warning light visible from the front, sides or rear thereof.

CHAPTER 955

An act relating to assistance to victims of natural disasters, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. The President of the United States declared states of disaster in California on (1) January 7, 1982, within the Counties of Alameda, Contra Costa, Marin, San Mateo, Santa Cruz, Solano, and Sonoma and on (2) April 24, 1982, within the County of Orange, thereby making available financial assistance from the federal Individual and Family Grant Program (P.L. 93-288). It is, therefore, the intent of the Legislature to provide Individual and Family Grant Program assistance to persons who have suffered extensive damage to real and personal property caused by (1) torrential storms and resulting flooding, mud slides, and other conditions commencing on or about December 19, 1981, and continuing to January 8, 1982, and (2) strong winds and raging fires on April 21, 1982. The Legislature finds and declares that the magnitude of these natural disasters are beyond the capabilities of the local governments which have been affected thereby and that immediate state assistance is urgently required.

SEC. 2. It is the intent of the Legislature that the provisions of this act are singular in nature and do not constitute a precedent for future appropriations by the Legislature for financial assistance in times of natural disaster.

SEC. 3. There is hereby appropriated from the General Fund the amount of five hundred fifty thousand two hundred seventy-one dollars ($550,271) for the costs of administering the federal

Individual and Family Grant Program (Sec. 408, P.L. 93-288).

SEC. 4. The appropriation of General Fund moneys under Section 3 of this act, plus that portion of federal moneys allocated for the federal share of program administrative costs, in the sum of one hundred sixty-five thousand three hundred five dollars ($165,305), shall be transferred to the State Department of Social Services, as administrative costs are incurred, to reimburse the department's support appropriation for the appropriate fiscal years.

SEC. 5. It is the intent of the Legislature that sufficient funds be appropriated in the Budget Act of 1983 to reimburse the federal government, pursuant to Section 408 of P.L. 93-288, for 25 percent of the amount of financial assistance provided under the Individual and Family Grant Program.

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 the needed disaster relief afforded by this act may be rendered at the earliest possible time, it is necessary that this act take effect immediately.

SEC. 7. This act shall remain in effect only until January 1, 1984, and as of that date is repealed.

CHAPTER 956

An act to amend Sections 7307.5, 7311, 7332, 7333, 7342, 7350, 7351, 7354.1, 7355, 7384, 7392.3, 7398, 7399, 7400, 7431, and 7442 of the Business and Professions Code, relating to cosmetology.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 7307.5 of the Business and Professions Code is amended to read:

7307.5. The board shall mail or deliver to every person failing any examination provided for in this chapter the total grade which he or she receives on the examination.

SEC. 2. Section 7311 of the Business and Professions Code is amended to read:

7311. The board may adopt such rules governing sanitary conditions, and precautions to be employed as are reasonably necessary to protect the public health and safety in cosmetological establishments, schools of cosmetology, in the practice of a cosmetologist, and in any branch of cosmetology. Such rules shall be adopted in accordance with the provisions of the Administrative Procedure Act, and shall be submitted to the State Department of

Health Services, and approved by such department prior to filing with the Secretary of State. A copy of all such rules shall be furnished to each licensee.

SEC. 3. Section 7332 of the Business and Professions Code is amended to read:

7332. The board shall admit to examination for a certificate of registration and license as a cosmetologist any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

(a) The applicant is not less than 17 years of age.

(b) The applicant has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(c) The applicant has completed the 10th grade in the public schools of this state or its equivalent.

(d) The applicant has had any one of the following:

(1) Training of at least 1,600 hours, at least 400 hours of which shall have been received within the five years immediately preceding application, in a school of cosmetology approved by the board.

(2) Practice of the occupation of a cosmetologist, for a period of four years outside of this state. One year of such practice shall have been within the three years immediately preceding application. Each three months of such practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3) Service for at least two years as a licensed junior operator in a licensed cosmetological establishment in which all of the occupations of a cosmetologist are practiced.

(4) Practice of the occupation of a licensed barber in this state within the last preceding two years, and has completed a 400-hour approved course in a cosmetology school licensed by the board.

(5) Completion of a 1,500-hour course in a barbering school licensed by the State Board of Barber Examiners and has completed a 400-hour approved course in a cosmetology school licensed by the California Board of Cosmetology.

SEC. 4. Section 7333 of the Business and Professions Code is amended to read:

7333. The board may license as a junior operator any person who has made application to the board upon the proper form and has submitted with the form two photographs, size 3 by 3 inches, has paid the fee required by this chapter, and who is qualified as follows:

(a) Has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Is over the age of 16 years.

(c) Has completed the 10th grade in the public schools of this state or its equivalent.

(d) Has submitted evidence acceptable to the board that any training he or she is required by law to obtain shall be conducted in a licensed cosmetological establishment which has been approved by the board to conduct such training and under the supervision of a

licensed cosmetologist.

SEC. 5. Section 7342 of the Business and Professions Code is amended to read:

7342. The board shall admit to examination for a certificate of registration and license as an electrologist, any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

(a) Who is not less than 17 years of age.

(b) Who has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Who has completed the 12th grade, or an accredited senior high school, in public schools of this state or its equivalent.

(d) Who has had any one of the following:

(1) Training of 500 hours, at least 120 hours of which shall have been received within the five years immediately preceding application, in a licensed school in which the practice is taught.

(2) Instruction, training and practice as a junior electrologist for a period of not less than 12 months, in a licensed cosmetological establishment, under a licensed electrologist.

(3) Holds a valid electrology license issued by a state whose licensing requirements are equal to or greater than California.

(4) Either training or practice, or a combination of training and practice, outside of this state in electrology for such period as may be specified by rules of the board.

SEC. 6. Section 7350 of the Business and Professions Code is amended to read:

7350. A manicurist is any person who engages in the occupation of cutting, trimming, polishing, coloring, tinting, cleansing or manicuring the nails of any person or massaging, cleansing, treating, or beautifying the hands or feet of any person.

SEC. 7. Section 7351 of the Business and Professions Code is amended to read:

7351. The board shall admit to the examination for a certificate of registration and license as a manicurist, any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

(a) Who is not less than 17 years of age.

(b) Who has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Who has completed the 10th grade in the public schools of this state or its equivalent.

(d) Who has had any one of the following:

(1) Training of at least 350 hours, at least 80 hours of which shall have been received within the five years immediately preceding application, in a licensed school in which the practice is taught.

(2) Practice in manicuring for a period of one year outside of this state. Such practice shall have been within the five years immediately preceding application.

SEC. 8. Section 7354.1 of the Business and Professions Code is

amended to read:

7354.1. A cosmetician, unless otherwise licensed by the board, is specifically prohibited from engaging in any and all of the following practices:

(a) Arranging, dressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, tinting, coloring, straightening, dyeing, brushing, beautifying or otherwise treating by any means the hair on the head of any person.

(b) Massaging, cleaning or stimulating the scalp, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(c) Removing superfluous hair from the body of any person by the use of electrolysis or thermolysis.

(d) Cutting, trimming, polishing, tinting, coloring, cleansing or manicuring the nails of any person.

SEC. 9. Section 7355 of the Business and Professions Code is amended to read:

7355. The board shall admit to examination for a license as a cosmetician, any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

(a) Who is not less than 17 years of age.

(b) Who has completed the 10th grade in the public schools of this state or its equivalent.

(c) Who has received a minimum of 600 hours of training, at least 160 hours of which shall have been received within the five years immediately preceding application, at an approved public or private school which teaches cosmetology, or who has practiced the occupation of a cosmetician, as defined in Section 7354, full time for at least one year outside of this state, within the five years immediately preceding application. The 600 hours of training shall include theory, modeling, and practice.

SEC. 10. Section 7384 of the Business and Professions Code is amended to read:

7384. No person having charge of a cosmetological establishment or school of cosmetology, whether as an owner or an employee, shall permit any room or part thereof in which any of the branches or practices of cosmetology are conducted, practiced or taught to be used for sleeping or residential purposes or for any other purpose that would tend to make the room unsanitary.

A cosmetological establishment or school of cosmetology shall have a direct entrance, separate and distinct from any entrance in connection with private quarters.

A violation of the provisions of this section is a misdemeanor punishable by a fine of not less than twenty-five nor more than two hundred dollars or by imprisonment for a term of not less than fifty nor more than one hundred eighty days, or by both such fine and imprisonment.

SEC. 11. Section 7392.3 of the Business and Professions Code is

amended to read:

7392.3. If a school of cosmetology or electrology moves from existing approved premises to a new location without changing ownership, the licensee shall qualify such new premises only, as would a new licensee. If a school of cosmetology or electrology expands or increases the facilities of the school, plans for such alteration shall first be submitted to the board for approval. Such licensee shall not have to qualify in any other manner enumerated in this chapter.

SEC. 12. Section 7398 of the Business and Professions Code is amended to read:

7398. Every school shall post with the board a good and sufficient surety bond executed by the applicant as principal and by a surety company as surety in the amount of five thousand dollars ($5,000).

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.

Any person claiming to be injured or damaged by any act of the school may maintain an action on the bond against the school and the surety named therein, or either of them, for refund of tuition paid and any judgment against the principal or surety in any such action shall include the costs thereof and those incident to the bringing of the action, including a reasonable attorney fee. The aggregate liability of the surety to all such persons shall not, however, exceed the sum of the bond.

The failure of a school to maintain a bond in force and effect at all times shall be grounds for the suspension of the school's license.

SEC. 13. Section 7399 of the Business and Professions Code is amended to read:

7399. Every person, firm or corporation granting credit toward licensure and exacting a fee for the teaching of any branch of cosmetology is classed as a school of cosmetology under this article and is required to comply with all of its provisions.

SEC. 14. Section 7400 of the Business and Professions Code is amended to read:

7400. In every licensed school of cosmetology, a student for a license as a cosmetologist, after 200 hours of instruction, may engage, in the school and as a student, in work connected with any branch or any combination of the branches of cosmetology taught in the school upon a patron who is paying for service or materials and a student for a license as a manicurist, after 50 hours of instruction, may engage, in the school and as a student, in work connected with manicuring taught in the school upon a patron who is paying for

service or materials and a student for a license as a cosmetician after 75 hours of instructions may engage, in the school and as a student, in work connected with being a cosmetician taught in the school upon a patron who is paying for service or materials, and a student for a license as an electrologist, after 150 hours of instruction, may engage, in the school and as a student, in work connected with being an electrologist taught in the school upon a patron who is paying for service or materials.

No student may engage in any work upon a patron who is paying for service or materials until the student has had the required number of hours of instruction.

SEC. 15. Section 7431 of the Business and Professions Code is amended to read:

7431. The grounds for disciplinary action are as follows:

(a) Failure of a person, firm or corporation operating a cosmetological establishment or school of cosmetology or engaged in the practice of cosmetology or any of its branches to comply with the requirements of this chapter.

(b) Failure to comply with the rules governing sanitary conditions, adopted by the board and approved by the State Department of Health, for the regulation of cosmetological establishments, schools of cosmetology or the practice of cosmetology.

(c) Failure to comply with the rules adopted by the board for the regulation of cosmetological establishments, schools of cosmetology, or the practice of cosmetology.

(d) Obtaining practice in cosmetology, or any branch thereof, or money, or any other thing of value, by fraudulent misrepresentation.

(e) Gross negligence.

(f) Repeated similar negligent acts.

(g) Incompetence.

(h) Continued practice by a person knowingly having an infectious or contagious disease.

(i) Habitual drunkenness, or habitual addiction to the use of morphine or any habit-forming drug.

(j) Advertisement by means of knowingly false or deceptive statements.

(k) Permitting a certificate of registration or license to be used where the holder is not personally, actively and continuously engaged in business.

(*l*) Failure to display the license or sanitary rules and regulations in a conspicuous place.

(m) Conviction of any crime substantially related to the qualifications, functions and duties of the registration or license holder, in which case the record of conviction or a certified copy, shall be conclusive evidence thereof.

(n) Engaging, outside of a licensed school of cosmetology or cosmetological establishment and for compensation in any form whatever, in any practice for which a license is required under this

chapter, except that when such service is necessary because of the illness or other physical incapacity of the person with respect to whom it is performed, it may be performed by a licensee obtained for the purpose from a licensed cosmetological establishment.

(o) Any action or conduct which would have warranted the denial of a certificate or license.

SEC. 16. Section 7442 of the Business and Professions Code is amended to read:

7442. The amount of the fees required by this chapter relating to licenses for cosmetologists, electrologists, manicurists, cosmeticians, junior operators, junior electrologists, cosmetology instructors, electrology instructors, and provisional instructors, shall be set by the board at not more than the amounts shown in the following schedule:

(a) Cosmetologist application, examination and initial license fee shall be not more than thirty-two dollars ($32).

(b) Electrologist application, examination and initial license fee shall be not more than thirty-two dollars ($32).

(c) Manicurist application, examination and initial license fee shall be not more than twenty-one dollars ($21).

(d) Junior operator application and license fee shall be not more than eighteen dollars ($18).

(e) Junior electrologist application and initial license fee shall be not more than eighteen dollars ($18).

(f) Cosmetology instructor application, examination and initial license fee shall be not more than thirty-eight dollars ($38).

(g) Electrology instructor application, examination and initial license fee shall be not more than thirty-five dollars ($35).

(h) Provisional instructor application and license fee shall be not more than thirty-eight dollars ($38).

(i) Cosmetologist, electrologist, manicurist, cosmetician, cosmetology instructor and electrology instructor license renewal fees shall be not more than twenty dollars ($20).

(j) Cosmetician application, examination and initial license fee shall be not more than thirty-two dollars ($32).

(k) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal.

SEC. 17. 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 957

An act to amend Section 1798.24 of the Civil Code, and to add Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 1798.24 of the Civil Code is amended to read:

1798.24. No agency may disclose any personal or confidential information unless the disclosure of such information is:

(a) Pursuant to an unsolicited written request, or an oral request which is accompanied by adequate indication of identity, by the individual to whom the record pertains.

(b) With the prior written voluntary consent of the individual to whom the record pertains, but only if such consent has been obtained not more than 30 days before the disclosure, or in the time limit specified by the individual in the written consent.

(c) To the duly appointed guardian or conservator of the individual or a person representing the individual provided that it can be proven with reasonable certainty through the possession of agency forms, documents or correspondence that such person is the authorized representative of the individual to whom the information pertains.

(d) To those officers, employees or volunteers of the agency which has custody of the information if such disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired.

(e) To a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and such use is compatible with a purpose for which the information was collected and such use or transfer is listed in the notice provided pursuant to Section 1798.9.

(f) To a governmental entity when required by state or federal law.

(g) Pursuant to the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(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

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 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 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.

(u) To an insurer if authorized by Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code.

The provisions of this article shall not be applied or construed to authorize the disclosure of any personal or confidential information to the individual to whom the information pertains.

SEC. 2. Chapter 5 (commencing with Section 10900) is added to Division 4 of the Vehicle Code, to read:

CHAPTER 5. MOTOR VEHICLE THEFT AND MOTOR VEHICLE INSURANCE FRAUD REPORTING

10900. This chapter shall be known and may be cited as the Motor Vehicle Theft and Motor Vehicle Insurance Fraud Reporting Act.

10901. For purposes of this chapter, the definitions contained herein govern the construction of this chapter, unless the context requires otherwise.

(a) "Authorized governmental agency" means the Department of the California Highway Patrol, the Department of Insurance, the Department of Justice, the police department of a city, or a city and county, the sheriff's office or department of a county, a law enforcement agency of the federal government, or the district attorney of any county, or city and county.

(b) "Relevant" means having a tendency to make the existence of any fact that is of consequence to the investigation or determination of an issue more probable or less probable than it would be without the information.

(c) Information shall be deemed important if, within the sole discretion of the authorized governmental agency, that information is requested by that authorized governmental agency.

(d) "Insurer" means the automobile assigned risk plan, established pursuant to Section 11620 of the Insurance Code, as well as any insurer writing insurance for motor vehicles or otherwise liable for any loss due to motor vehicle theft or motor vehicle insurance fraud.

(e) "Motor vehicle" means motor vehicle as defined in Section 415.

10903. (a) Upon written request to an insurer by an authorized governmental agency, an insurer, or agent authorized by that insurer to act on behalf of the insurer, shall release to the requesting authorized governmental agency any or all relevant information deemed important to the authorized governmental agency which the insurer may possess relating to any specific motor vehicle theft or motor vehicle insurance fraud. Relevant information may include, but is not limited to, all of the following:

(1) Insurance policy information relevant to the motor vehicle theft or motor vehicle insurance fraud under investigation, including, but not limited to, any application for a policy.

(2) Policy premium payment records which are available.

(3) History of previous claims made by the insured.

(4) Information relating to the investigation of the motor vehicle theft or motor vehicle insurance fraud, including statements of any person, proof of loss, and notice of loss.

(b) (1) When an insurer knows or reasonably believes it knows the identity of a person whom it has reason to believe committed a criminal or fraudulent act relating to a motor vehicle theft or motor vehicle insurance claim or has knowledge of such a criminal or fraudulent act which is reasonably believed not to have been reported to an authorized governmental agency, then, for the purpose of notification and investigation, the insurer, or an agent authorized by an insurer to act on its behalf, shall notify the local police department, sheriff's office, the Department of the California Highway Patrol, or district attorney's office, and may notify any other authorized governmental agency of that knowledge or reasonable belief and provide any additional information in accordance with subdivision (a).

(2) When an insurer provides the local police department, sheriff's office, the Department of the California Highway Patrol, or district attorney's office with notice pursuant to this section, it shall be deemed sufficient notice to all authorized governmental agencies for the purpose of this chapter. Nothing in this section shall relieve an insurer of its obligations under Section 12992 of the Insurance Code.

(3) Nothing in this subdivision shall abrogate or impair the rights or powers created under subdivision (a).

(c) The authorized governmental agency provided with information pursuant to subdivision (a) or (b) may release or provide that information to any other authorized governmental agency.

(d) An authorized governmental agency shall notify an insurer in writing when it has reason to believe that a fraudulent act relating to a motor vehicle theft or motor vehicle insurance claim has been committed. The agency shall provide this notice within a reasonable time, not to exceed 30 days. The agency may also release more specific information pursuant to this section when it determines that an ongoing investigation would not be jeopardized. The agency may require a fee from the insurer equal to the cost of providing the notice or the information specified in this section.

(e) An insurer providing information to an authorized agency pursuant to this section shall provide the information within a reasonable time, but not to exceed 30 days.

10904. (a) Any information acquired pursuant to this chapter shall not be a part of any public record. Except as otherwise provided by law, any authorized governmental agency, an insurer, or an agent authorized by an insurer to act on its behalf, which receives any information furnished pursuant to this chapter, shall not release that information to public inspection.

(b) The evidence or information described in this section shall be privileged and shall not be subject to subpoena or subpoena duces tecum in a civil or criminal proceeding unless, after reasonable notice to any insurer, agent authorized by an insurer to act on its behalf, and authorized governmental agency which has an interest in the information, and a hearing, the court determines that the public interest and any ongoing investigation by the authorized governmental agency, insurer, or an agent authorized by an insurer to act on its behalf will not be jeopardized by its disclosure, or by the issuance of and compliance with a subpoena or subpoena duces tecum.

10905. In the absence of fraud or malice, no insurer, or agent authorized by an insurer to act on behalf of the insurer, and no authorized governmental agency or its respective employees, shall be subject to any civil liability in a cause of action of any kind for releasing or receiving any information pursuant to Section 10903 or 10904. Nothing in this chapter is intended to, or does in any way or manner, abrogate or lessen the existing common law or statutory privileges and immunities of an insurer, agent authorized by that insurer to act on behalf of the insurer, or of any authorized governmental agency or its respective employees.

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 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 958

An act to amend Section 10501 of the Vehicle Code, relating to stolen vehicles.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 10501 of the Vehicle Code is amended to read:

10501. (a) It is unlawful for any person to make or file a false or fraudulent report of theft of a vehicle required to be registered under this code with any law enforcement agency with intent to deceive.

(b) If a person has been previously convicted of a violation of subdivision (a), he or she is punishable by imprisonment in the state prison for 16 months, or two or three years, or in a county jail for not to exceed one year.

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 959

An act to add and repeal Section 37227.6 of the Education Code, relating to educational observances.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 37227.6 is added to the Education Code, to read:

37227.6. The Tuesday in the week designated by the Legislature or by the Governor as Public Schools Week is designated and set apart as the Day of the Teacher. The third Tuesday in April is designated and set apart as the Day of the Teacher in the event that a Public Schools Week is not designated.

All public schools and educational institutions shall observe this day with suitable exercises commemorating and directing attention to teachers and the teaching profession. The exercises required by this section shall be integrated into the regular school program and shall be conducted by the school or institution within the amount otherwise budgeted for educational programs.

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 960

An act to amend and repeal Section 14026.5 of the Welfare and Institutions Code, and to repeal Section 3 of Chapter 1008 of the Statutes of 1980, relating to Medi-Cal.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 14026.5 of the Welfare and Institutions Code is amended to read:

14026.5. (a) The State Director of Health Services shall issue Medi-Cal cards to peace officers or persons working under such officers' immediate supervision for the purpose of conducting investigations of Medi-Cal fraud , or a violation of the Medical Practice Act as set forth at Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, upon an order of a magistrate issued pursuant to subdivision (c).

(b) Nothing in this section shall be construed to mean that it is the exclusive method for conducting investigations for Medi-Cal fraud or for violations of the Medical Practice Act as set forth at Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(c) A magistrate may issue an order for the issuance of Medi-Cal cards to peace officers upon a showing of reasonable suspicion that the person being investigated has committed or is committing Medi-Cal fraud or a violation of the Medical Practice Act as set forth at Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. As used in this section, "reasonable suspicion" means that the peace officer subjectively entertains such a suspicion and that it is objectively reasonable for him to do so. The facts must be those which would cause any reasonable peace officer in a like position, drawing when appropriate on his training and experience, to suspect the same criminal activity and the same involvement by the person in question. A showing of reasonable suspicion may be made either by written statement under penalty of perjury or by oral statement taken under oath, recorded and transcribed.

(d) The State Department of Health Services shall report to the Legislature every six months commencing June 1, 1981, on the utilization of Medi-Cal cards issued pursuant to this section. The report shall include, among other matters, a description of the types of criminal investigations conducted pursuant thereto.

This section shall remain in effect only until January 1, 1987, and on that date is repealed unless the Legislature enacts a statute which is chaptered before that date to delete or extend the date.

SEC. 2. Section 3 of Chapter 1008 of the Statutes of 1980 is

repealed.

CHAPTER 961

An act to amend Section 31692 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 31692 of the Government Code is amended to read:

31692. The adoption of an ordinance or resolution pursuant to Section 31691 shall give no vested right to any member or retired member, and the board of supervisors or the governing body of the district may amend or repeal the ordinance or resolution at any time except that as to any member who is retired at the time of such an amendment or repeal, the amendment or repeal shall not be operative until ninety (90) days after the board or governing body notifies the member in writing of the amendment or repeal. In counties with a population of 5,000,000 or more, the adoption of an ordinance or resolution pursuant to Section 31691 shall remain in effect for any member heretofore or hereafter retired for as long as the board of supervisors or governing body provides similar types of benefits to any active member in current county service.

SEC. 2. 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. 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 962

An act to amend Section 20102 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 20102 of the Government Code is amended to read:

20102. The board shall cause ballots to be distributed to each active and retired member of the system in advance of each election, and shall provide for the return of the voted ballots to the Secretary of State without cost to the member. The ballots cast shall be canvassed by the Secretary of State. The board may require all persons who perform election duties to certify, under penalty of perjury, that they properly performed those duties.

CHAPTER 963

An act to amend Section 12100 of the Financial Code, relating to financial transactions.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 12100 of the Financial Code is amended to read:

12100. The provisions of this division do not apply to any of the following:

(a) Persons or their authorized agents doing business under license and authority of the Superintendent of Banks of the State of California, or under any law of this state or of the United States relating to banks, trust companies, building or savings and loan associations, industrial loan companies, personal property brokers, credit unions, title insurance companies or underwritten title companies (as defined in Section 12402 of the Insurance Code), escrow agents subject to Division 6 of the Financial Code, or consumer finance lenders subject to Division 10 (commencing with Section 24000) of the Financial Code.

(b) (1) Any person who is licensed under Chapter 14A (commencing with Section 1851) of Division 1 of this code or any agent of such person when selling any travelers check (as defined in Section 1852 of this code) which is issued by such person.

(2) Any person who is licensed under Division 16 (commencing with Section 33000) of this code or any agent of such person, when selling any payment instrument (as defined in Section 33059 of this code) which is issued by such person.

(c) The services of a person licensed to practice law in this state, when such person renders services in the course of his practice as an

attorney at law, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly with the prorater, check seller or casher.

(d) Any transaction in which money or other property is paid to a "joint control agent" for disbursal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

(e) A merchant-owned credit or creditors association, or a member-owned or member-controlled or member-directed association whose principal function is that of servicing the community as a reporting agency.

(f) Any person licensed under Chapter 1 of Part 6, Division 2 of the Labor Code, when acting in any capacity for which he is licensed under such part.

(g) Any person licensed under Part 1, Division 4, of the Business and Professions Code, when acting in any capacity for which he is licensed under that part.

(h) A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditor's committee.

(i) The services of a person licensed as a certified public accountant or a public accountant in this state, when such person renders services in the course of his practice as a certified public accountant or a public accountant, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly, with the prorater, check seller or casher.

(j) Nonprofit community service organizations that are subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or are subject to the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) and whose membership consists exclusively of retailers, lenders in the consumer credit field, educators, attorneys, social service organizations, employers' or employees' organizations, and related groups, if the principal functions of such organizations are: (1) consumer credit education; (2) counseling on consumer credit problems and family budgets; and (3) arranging, and in certain cases administering, debt settlement plans, for which a charge for administrative services only may be made of 6.5 percent of the money disbursed monthly, or twenty dollars ($20) per month, whichever is the lesser, to offset expenses; provided essential records are kept in accordance with sound accounting practices, consumer funds are banked in a trust account and appropriate fidelity bond and insurance are maintained, that reports are made to debtors, and

independent audits made; and further provided, however, that this subdivision shall exempt such organizations from this division only with respect to those activities described in Section 12002.1 and not with respect to those activities described in Section 12002.

(k) Any person licensed under Chapter 14 (commencing with Section 1800) of Division 1 or any agent of such person, when selling any check or draft which is drawn by such person and which is of the type described in subdivision (b) of Section 1800.5.

(*l*) Any group of banks each of which is organized under the laws of a nation other than the United States and one or more of which are licensed by the Superintendent of Banks of the State of California under Article 1 (commencing with Section 1750), Chapter 14, Division 1, or any agent of such group, when selling any foreign currency travelers check (as defined in Section 1852) issued by such group, provided that each bank which is a member of the group is jointly and severally liable to pay such foreign currency travelers check.

(m) Any transaction of the type described in Section 1854.1.

SEC. 2. Section 12100 of the Financial Code is amended to read:

12100. The provisions of this division do not apply to any of the following:

(a) Persons or their authorized agents doing business under license and authority of the Superintendent of Banks of the State of California, or under any law of this state or of the United States relating to banks, trust companies, building or savings and loan associations, industrial loan companies, personal property brokers, credit unions, title insurance companies or underwritten title companies (as defined in Section 12402 of the Insurance Code), escrow agents subject to Division 6 (commencing with Section 17000), consumer finance lenders subject to Division 10 (commencing with Section 24000), or commercial finance lenders subject to Division 11 (commencing with Section 26000).

(b) (1) Any person which is licensed under Chapter 14A (commencing with Section 1851) of Division 1 of this code or any agent of such person when selling any travelers check (as defined in Section 1852 of this code) which is issued by such person.

(2) Any person which is licensed under Division 16 (commencing with Section 33000) of this code or any agent of such person, when selling any payment instrument (as defined in Section 33059 of this code) which is issued by such person.

(c) The services of a person licensed to practice law in this state, when such person renders services in the course of his practice as an attorney at law, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly with the prorater, check seller or casher.

(d) Any transaction in which money or other property is paid to a "joint control agent" for disbursal or use in payment of the cost of

labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

(e) A merchant-owned credit or creditors association, or a member-owned or member-controlled or member-directed association whose principal function is that of servicing the community as a reporting agency.

(f) Any person licensed under Chapter 1 of Part 6, Division 2 of the Labor Code, when acting in any capacity for which he is licensed under such part.

(g) Any person licensed under Part 1, Division 4, of the Business and Professions Code, when acting in any capacity for which he is licensed under that part.

(h) A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditor's committee.

(i) The services of a person licensed as a certified public accountant or a public accountant in this state, when such person renders services in a course of his practice as a certified public accountant or a public accountant, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly, with the prorater, check seller or casher.

(j) Nonprofit community service organizations that are subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or are subject to the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) and whose membership consists exclusively of retailers, lenders in the consumer credit field, educators, attorneys, social service organizations, employers' or employees' organizations, and related groups, if the principal functions of such organizations are: (1) consumer credit education; (2) counseling on consumer credit problems and family budgets; and (3) arranging, and in certain cases administering, debt settlement plans, for which a charge for administrative services only may be made of 6.5 percent of the money disbursed monthly, or twenty dollars ($20) per month, whichever is the lesser, to offset expenses; provided essential records are kept in accordance with sound accounting practices, consumer funds are banked in a trust account and appropriate fidelity bond and insurance are maintained, that reports are made to debtors, and independent audits made; and further provided, however, that this subdivision shall exempt such organizations from this division only with respect to those activities described in Section 12002.1 and not with respect to those activities described in Section 12002.

(k) Any person licensed under Chapter 14 (commencing with Section 1800) of Division 1 or any agent of such person, when selling any check or draft which is drawn by such person and which is of the

type described in subdivision (b) of Section 1800.5.

(*l*) Any group of banks each of which is organized under the laws of a nation other than the United States and one or more of which are licensed by the Superintendent of Banks of the State of California under Article 1 (commencing with Section 1750), Chapter 14, Division 1, or any agent of such group, when selling any foreign currency travelers check (as defined in Section 1852) issued by such group, provided that each bank which is a member of the group is jointly and severally liable to pay such foreign currency travelers check.

(m) Any transaction of the type described in Section 1854.1.

SEC. 3. 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 12100 of the Financial Code, and this bill is chaptered after Assembly Bill 2591, that the amendments to Section 12100 proposed by both bills be given effect and incorporated in Section 12100 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill 2591 are both chaptered and become effective January 1, 1983, both amend Section 12100, and this bill is chaptered after Assembly Bill 2591, in which case Section 1 of this act shall not become operative.

CHAPTER 964

An act to add Section 1170.8 to the Penal Code, relating to criminal sentencing.

[Approved by Governor September 10, 1982 Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 1170.8 is added to the Penal Code, to read:

1170.8. In the case of any person convicted of a felony who would otherwise be sentenced to state prison the court shall consider whether the defendant was a member of the military forces of the United States who served in combat in Vietnam and who suffers from substance abuse or psychological problems resulting from that service. If the court concludes that the defendant is such a person, the court may order the defendant committed to the custody of federal correctional officials for incarceration for a term equivalent to that which the defendant would have served in state prison. The court is authorized to make such a commitment only if the defendant agrees to such a commitment, the court has determined that appropriate federal programs exist, and federal law authorizes the receipt of the defendant under such conditions.

SEC. 2. The Department of Corrections may enter into

cooperative arrangements with the Veterans Administration Vet Centers, the California Department of Veterans Affairs, the Department of Alcohol and Drug Programs and programs under its jurisdiction, and community-based veterans' organizations for the purposes of providing appropriate counseling and treatment for those defendants who are veterans specified in Section 1170.8 of the Penal Code.

CHAPTER 965

An act to amend Section 554 of the Penal Code, relating to trespass.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 554 of the Penal Code is amended to read:

554. Any property, except that portion of such property to which the general public is accorded access, may be posted against trespassing and loitering in the manner provided in Section 554.1, and thereby become posted property subject to the provisions of this article applicable to posted property, if such property consists of, or is used, or is designed to be used, for any one or more of the following:

(a) An oil well, oilfield, tank farm, refinery, compressor plant, absorption plant, bulk plant, marine terminal, pipeline, pipeline pumping station, or reservoir, or any other plant, structure, or works, used for the production, extraction, treatment, handling, storage, or transportation, of oil, gas, gasoline, petroleum, or any product or products thereof.

(b) A gas plant, gas storage station, gas meter, gas valve, or regulator station, gas odorant station, gas pipeline, or appurtenances, or any other property used in the transmission or distribution of gas.

(c) A reservoir, dam, generating plant, receiving station, distributing station, transformer, transmission line, or any appurtenances, used for the storage of water for the generation of hydroelectric power, or for the generation of electricity by water or steam or by any other apparatus or method suitable for the generation of electricity, or for the handling, transmission, reception, or distribution of electric energy.

(d) Plant, structures or facilities used for or in connection with the rendering of telephone or telegraph service or for radio or television broadcasting.

(e) A water well, dam, reservoir, pumping plant, aqueduct, canal, tunnel, siphon, conduit, or any other structure, facility, or conductor for producing, storing, diverting, conserving, treating, or conveying water.

(f) The production, storage, or manufacture of munitions,

dynamite, black blasting powder, gunpowder, or other explosives.

(g) A railroad right-of-way, railroad bridge, railroad tunnel, railroad shop, railroad yard, or other railroad facility.

(h) A plant and facility for the collection, pumping, transmission, treatment, outfall, and disposal of sanitary sewerage or storm and waste water, including a water pollution or quality control facility.

(i) A quarry used for the purpose of extracting surface or subsurface material or where explosives are stored or used for that purpose.

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 966

An act to amend, repeal and add Section 987.8 of the Penal Code, relating to legal assistance.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 987.8 of the Penal Code is repealed.

SEC. 2. Section 987.8 is added to the Penal Code, 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, or upon the withdrawal of the public defender or appointed private counsel, the court may, after notice and 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 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.

(b) In any case in which the defendant hires counsel replacing a publicly provided attorney; in which the public defender or appointed counsel was required by the court to proceed with the case after a determination by the public defender that the defendant was not indigent; or, in which the defendant, at the conclusion of the case, appears to have sufficient assets to repay, without undue

hardship, all or a portion of the cost of the legal assistance provided to him or her, by monthly installments or otherwise; the court shall make a determination of the defendant's ability to pay as provided in subdivision (a), and may, in its discretion, make other orders as provided in that subdivision.

The provisions of this subdivision shall be operative in a county only upon the adoption of a resolution by the board of supervisors to that effect.

(c) If the defendant, after having been ordered to appear before a county officer, has been given proper notice and fails to appear before a county officer within 20 working days, the county officer shall recommend to the court that the full cost of the legal assistance shall be ordered to be paid by the defendant. The notice to the defendant shall contain (1) a statement of the cost of the legal assistance provided to the defendant as determined by the court; (2) the defendant's procedural rights under this section; (3) the time limit within which the defendant's response is required; and (4) a warning that if the defendant fails to appear before the designated officer, the officer will recommend that the court order the defendant to pay the full cost of the legal assistance provided to him or her.

(d) At a hearing, the defendant shall be entitled to, but shall not be limited to, all of the following rights:

(1) The right to be heard in person.

(2) The right to present witnesses and other documentary evidence.

(3) The right to confront and cross-examine adverse witnesses.

(4) The right to have the evidence against him or her disclosed to him or her.

(5) The right to a written statement of the findings of the court.

If the court determines that the defendant has the present ability to pay all or a part of the cost, the court shall set the amount to be reimbursed and order the defendant to pay the sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Failure of a defendant who is not in custody to appear after due notice is a sufficient basis for an order directing the defendant to pay the full cost of the legal assistance determined by the court. Executions may be issued on the order in the same manner as on a judgment in a civil action. The order to pay all or a part of the costs shall not be enforced by contempt.

Any order entered under this subdivision is subject to relief under the provisions of Section 473 of the Code of Civil Procedure.

(e) Prior to the furnishing of counsel or legal assistance by the court, the court shall give notice to the defendant that 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 the present ability, the court shall order him or her to pay all or a part

of the 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 execution.

(f) As used in this section:

(1) "Legal assistance" 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) "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 to him or her, and shall include, but not be limited to, all of 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 the defendant's 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 his or her defense.

(C) The likelihood that the defendant shall be able to obtain employment within a six-month period from the date of the hearing.

(D) Any other factor which may bear upon the defendant's financial capability to reimburse the county for the costs of the legal assistance provided to the defendant.

(g) 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 it renders the judgment.

(h) The provisions of this section shall apply to all proceedings, including contempt proceedings, in which the party is represented by a public defender or appointed counsel.

SEC. 3. Section 987.8 as added to the Penal Code by Section 2 of this act 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, or upon the withdrawal of the public defender or appointed private counsel, the court may, after notice and 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.

(b) In any case in which the defendant hires counsel replacing a publicly provided attorney; in which the public defender or appointed counsel was required by the court to proceed with the case after a determination by the public defender that the defendant is not indigent; or, in which the defendant, at the conclusion of the case, appears to have sufficient assets to repay, without undue hardship, all or a portion of the cost of the legal assistance provided to him or her, by monthly installments or otherwise; the court shall make a determination of the defendant's ability to pay as provided in subdivision (a), and may, in its discretion, make other orders as provided in that subdivision.

The provisions of this subdivision shall be operative in a county only upon the adoption of a resolution by the board of supervisors to that effect.

(c) If the defendant, after having been ordered to appear before a county officer, has been given proper notice and fails to appear before a county officer within 20 working days, the county officer shall recommend to the court that the full cost of the legal assistance shall be ordered to be paid by the defendant. The notice to the defendant shall contain (1) a statement of the cost of the legal assistance provided to the defendant as determined by the court; (2) the defendant's procedural rights under this section; (3) the time limit within which the defendant's response is required; and (4) a warning that if the defendant fails to appear before the designated officer, the officer will recommend that the court order the defendant to pay the full cost of the legal assistance provided to him or her.

(d) At a hearing, the defendant shall be entitled to, but shall not be limited to, all of the following rights:

(1) The right to be heard in person.

(2) The right to present witnesses and other documentary evidence.

(3) The right to confront and cross-examine adverse witnesses.

(4) The right to have the evidence against him or her disclosed to him or her.

(5) The right to a written statement of the findings of the court.

If the court determines that the defendant has the present ability to pay all or a part of the cost, the court shall set the amount to be reimbursed and order the defendant to pay the sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Failure of a defendant who is not in custody to appear after due notice is a sufficient basis for an order directing the defendant to pay the full cost of the legal assistance determined by the court. The order to pay all or a part of the costs may be enforced in the manner provided for enforcement of money judgments generally but may not be enforced by contempt.

Any order entered under this subdivision is subject to relief under the provisions of Section 473 of the Code of Civil Procedure.

(e) Prior to the furnishing of counsel or legal assistance by the court, the court shall give notice to the defendant that 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 the present ability, the court shall order him or her to pay all or a part of the 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 in the same manner as any other money judgment.

(f) As used in this section:

(1) "Legal assistance" 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) "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 to him or her, and shall include, but not be limited to, all of 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 the defendant's 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 his or her defense.

(C) The likelihood that the defendant shall be able to obtain employment within a 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 of the legal assistance provided to the defendant.

(g) 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 it renders the judgment.

(h) The provisions of this section shall apply to all proceedings, including contempt proceedings, in which the party is represented by a public defender or appointed counsel.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 707 are both chaptered and become effective on or before January 1, 1982, that Section 987.8 as added to the Penal Code by

Section 2 of this act shall remain operative until the operative date of Assembly Bill 707, and that on the operative date of Assembly Bill 707, Section 987.8 as added to the Penal Code by Section 2 of this act shall be amended in the form set forth in Section 3 of this act. Therefore, if this bill and Assembly Bill 707 are both chaptered and become effective on or before January 1, 1982, Section 3 of this act shall become operative on the operative date of Assembly Bill 707.

CHAPTER 967

An act to amend Sections 1194.8 and 1210 of the Insurance Code, relating to insurance.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 1194.8 of the Insurance Code is amended to read:

1194.8. (a) Excess fund investments may be made by any admitted insurer in real estate and leases thereof and in making improvements thereon for business or residential purposes as an investment for the production of income. The phrase "business or residential purposes" shall not include real estate or leases primarily intended for use or valued as agricultural, horticultural, farm, ranch or mineral property. Any such investment may be made by admitted insurers having admitted assets aggregating in value not less than twenty-five million dollars ($25,000,000).

Admitted insurers, other than life, title, mortgage and mortgage guaranty insurers, having admitted assets aggregating in value less than twenty-five million dollars ($25,000,000) but not less than ten million dollars ($10,000,000) may also qualify to make such investments for a period of 12 months with the prior approval of the commissioner. Real estate and leases acquired and improvements made thereon under this section shall not exceed in the aggregate an amount equal to 10 percent of the insurer's admitted assets. Real estate and leases acquired under this section shall be in addition to that which is authorized to be acquired under the provisions of paragraphs (a) to (h), inclusive, of Section 1150. Except upon the prior approval in writing of the commissioner, an investment may not be made under the authority of this section if at the time of the making of such investment it would result in the insurer then owning real estate and leases thereof, other than of the kind and for the purposes described in paragraphs (a), (b) and (f) of Section 1150, in an amount exceeding 10 percent of the insurer's admitted assets. Any investment in a single parcel of real estate or in a single leasehold including improvements thereon made under the authority of this

section shall not be made in an amount in excess of 1 percent of the insurer's admitted assets or 10 percent of the aggregate of the insurer's capital paid-up and unassigned surplus, whichever amount is larger. A lease eligible for purchase hereunder shall be for a term which at the date of purchase shall not expire for at least 24 years. Percentage or dollar value of assets and capital paid-up and unassigned surplus as provided herein shall be determined by the insurer's last preceding annual statement of conditions and affairs made as of the December 31st last preceding and which has been filed with the commissioner pursuant to law.

(b) In computing the value of real estate held by any admitted insurer for the purpose of complying with the asset standards or percentage of asset standards, the insurer shall add the net equity of such real estate owned by the insured to the amount of encumbrances and liens against the property for which the insurer could be held liable for any deficiency in the event of foreclosure or other action to realize the value of such liens. "Net equity" as used in this section means book value less the value of liens and encumbrances.

SEC. 2. Section 1210 of the Insurance Code is amended to read:

1210. Any admitted insurer, after investing an amount equal to its required minimum paid-in capital in securities specified in Article 3 (commencing with Section 1170) of this chapter, may make such investments as it may see fit in the purchase of, or loans upon, properties and securities other than or in addition to or in excess of those set forth in Articles 2 (commencing with Section 1150), 2.5 (commencing with Section 1160.1), 3 (commencing with Section 1170) and 4 (commencing with Section 1190) of this chapter. Investments under this section shall not exceed in the aggregate the lesser of (a) or (b) as follows:

(a) Five percent of the insurer's admitted assets or

(b) Fifty percent of the excess of admitted assets over the sum of capital paid-up, liabilities and the surplus required by subdivision (a) of Section 700.02. Percentage or dollar value of admitted assets and capital paid-up and liabilities shall be determined by the insurer's last preceding annual statement of conditions and affairs made as of December 31st last preceding and which has been filed with the commissioner pursuant to law. Such investments shall be subject to the provisions of Sections 1153.5, 1154, 1200, 1201, and 1202 as if they were excess funds investments. This section shall apply to an insurer other than life only if such insurer has aggregate capital and surplus of at least ten million dollars ($10,000,000).

An investment originally made by an insurer pursuant to this section which subsequently meets the requirements of an investment contained in Article 2 (commencing with Section 1150), Article 2.5 (commencing with Section 1160.1), Article 3 (commencing with Section 1170) or Article 4 (commencing with Section 1190) may, at the election of such insurer, be considered to be held pursuant to any provision contained in such articles.

CHAPTER 968

An act to add Article 3 (commencing with Section 2956) to Chapter 2 of Title 14 of Part 4 of Division 3 of the Civil Code, relating to real property.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Article 3 (commencing with Section 2956) is added to Chapter 2 of Title 14 of Part 4 of Division 3 of the Civil Code, to read:

Article 3. Disclosures on Purchase Money Liens on Residential Property

2956. In a transaction for the purchase of a dwelling for not more than four families in which there is an arranger of credit, which purchase includes an extension of credit by the vendor, a written disclosure with respect to that credit transaction shall be made, as required by this article:

(a) To the purchaser, by the arranger of credit and the vendor (with respect to information within the knowledge of the vendor).

(b) To the vendor, by the arranger of credit and the purchaser (with respect to information within the knowledge of the purchaser).

If there is more than one arranger of credit and one of those arrangers has obtained the offer by the purchaser to purchase the property, that arranger shall make the disclosure, unless the parties designate another person in writing.

2957. The following definitions shall apply for the purposes of this article:

(a) "Arranger of credit" means:

(1) A person, other than a party to the credit transaction (except as provided in paragraph (2)), who is involved in developing or negotiating credit terms, participates in the completion of the credit documents, and directly or indirectly receives compensation for arrangement of the credit or from any transaction or transfer of the real property which is facilitated by that extension of credit. As used in this paragraph, "arranger of credit" does not apply to an attorney who is representing one of the parties to the credit transaction.

(2) A party to the transaction who is either a real estate licensee, licensed under provisions of Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, or an attorney licensed under Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(3) An arranger of credit does not include a person acting in the

capacity as an escrow in the transaction.

(b) "Credit" means the right granted by a vendor to a purchaser to purchase property and to defer payment therefore.

The credit involved must be subject to a finance charge or payable by written agreement in more than four installments, whether providing for payment of principal and interest, or interest only, not including a down payment.

(c) "Credit documents" are those documents which contain the binding credit terms, and include a note or a contract of sale if the contract spells out terms upon which a vendor agrees to provide financing for a purchaser.

(d) "Purchase" includes acquisition of equitable title by a real property sales contract as defined in Section 2985, or lease with an option to purchase, where the facts demonstrate intent to transfer equitable title.

(e) "Security documents" include a mortgage, deed of trust, real property sales contract as defined in Section 2985, or lease with an option to purchase, where the facts demonstrate an intent to transfer equitable title.

(f) "Balloon payment note" means a note under which the purchaser is obligated to pay at maturity a balloon payment which is a scheduled payment which is more than twice the amount of the smallest regularly scheduled payment.

(g) "All inclusive trust deed" is an instrument which secures indebtedness owed by the trustor to the beneficiary, which indebtedness includes a debt or debts owed by that beneficiary to the beneficiary of another security document secured by the same property which is senior in priority.

2958. A disclosure is not required under this article, to a purchaser when that purchaser is entitled to receive, a disclosure pursuant to the Federal Truth-In-Lending Act (15 U.S. Code 1604, as amended), the Real Estate Settlement Procedures Act (12 U.S. Code 2601, as amended), or Section 10240 of the Business and Professions Code; or to a vendor if the vendor is entitled to receive, a disclosure pursuant to Sections 10232.4 and 10232.5 of the Business and Professions Code, or disclosure pursuant to a qualification under Section 25110 of the Corporations Code or disclosure pursuant to regulations of the Department of Corporations granting an exemption from Section 25110 of the Corporations Code.

2959. The disclosures required by this article shall be made as soon as practicable, but before execution of any note or security documents. If any disclosure is made after the execution of credit documents by the purchaser, such documents shall be contingent on the purchaser's approval of the disclosures prior to execution of the security documents. The disclosure statement shall be receipted for by the purchaser and the vendor. The disclosure shall be signed by the arranger of credit and a copy shall be delivered respectively to the purchaser and the vendor and the arranger shall retain a true copy of the executed statements for three years.

The provisions of this section do not apply to the disclosures required by Section 2966.

2960. If information disclosed in accordance with this article is subsequently rendered inaccurate as a result of any act, occurrence, or agreement between the parties to the transaction subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom shall not constitute a violation of this article. If, at the time disclosure is to be made, an item of information required to be disclosed is unknown or not available to the vendor, purchaser, or arranger of credit, and the arranger of credit has made a reasonable effort to ascertain it, the disclosure may employ an approximation of the information, provided the approximation is clearly identified as such, is reasonable, is based on the best information available to the arranger, and is not used for the purpose of circumventing or evading the provisions of this article.

2961. Every disclosure required by this article and every act which is to be performed in making that disclosure shall be made in good faith. For the purposes of this article, "good faith" means honesty in fact in the conduct of the transaction.

2962. Any disclosure made pursuant to this article may be amended in writing by the person making the disclosure, provided that any amendment shall be subject to the provisions of Section 2959.

2963. The disclosures required to both purchaser and vendor by this article are:

(a) An identification of the note or other credit documents or security documents and of the property which is the security for the transaction.

(b) A description of the terms of the promissory note or other credit documents or a copy of the note or other credit documents.

(c) Insofar as available, the principal terms and conditions of each recorded encumbrance which constitutes a lien upon the property which is or will be senior to the financing being arranged, including the original balance, the current balance, the periodic payment, any ballon payment, the interest rate (and any provisions with respect to variations in the interest rate), the maturity date, and whether or not there is any current default in payment on that encumbrance.

(d) A warning that, if refinancing would be required as a result of lack of full amortization under the terms of any existing or proposed loans, such refinancing might be difficult or impossible in the conventional mortgage marketplace.

(e) If negative amortization is possible as a result of any variable or adjustable rate financing being arranged, a clear disclosure of this fact and an explanation of its potential effect.

(f) In the event that the financing involves an all inclusive trust deed, the disclosure shall indicate whether the contract documents specify who is liable for payment or responsible for defense in the case of an attempted acceleration by a lender under a prior encumbrance, and whether or not the contract documents specify

the responsibilities and rights of the parties in the event of a loan prepayment respecting a prior encumbrance which may result in a requirement for refinancing, a prepayment penalty, or a prepayment discount and, if such specification occurs, a recital of the provisions which apply.

(g) If the financing being arranged or any of the financing represented by a prior encumbrance could result in a balloon payment, or in a right in the lender under such financing to require a prepayment of the principal balance at or after a stipulated date, a disclosure of the date and amount of any balloon payment or the amount which would be due upon any prior call, and a statement that there is no assurance that new financing or loan extension will be available at the time of such occurrence.

(h) If the financing being arranged involves an all inclusive trust deed or real property sales contract, a disclosure of the party to whom payments will be made and who will be responsible for remitting these funds to payees under prior encumbrances and vendors under this transaction and a warning that, if that person is not a neutral third party, the parties may wish to agree to have a neutral third party designated for these purposes.

(i) A disclosure on the identity, occupation, employment, income, and credit data about the prospective purchaser, as represented to the arranger by the prospective purchaser; or, specifically, that no representation as to the credit-worthiness of the specific prospective purchaser is made by the arranger. A warning should also be expressed that Section 580b of the Code of Civil Procedure may limit any recovery by the vendor to the net proceeds of the sale of the security property in the event of foreclosure.

(j) A statement that loss payee clauses have been added to property insurance protecting the vendor, or that instructions have been or will be directed to the escrow holder, if any, in the transaction or the appropriate insurance carriers for addition of such loss payee clauses, or a statement that, if such provisions have not been made, that the vendor should consider protecting himself or herself by securing such clauses.

(k) A statement that a request for notice of default under Section 2924b has been recorded, or that, if it has not been recorded, the vendor should consider recording a request for notice of default.

(*l*) That a policy of title insurance has been obtained or will be obtained and be furnished to the vendor and purchaser, insuring the respective interests of the vendor and purchaser, or that the vendor and purchaser individually should consider obtaining a policy of title insurance.

(m) That a tax service has been arranged to report to the vendor whether property taxes have been paid on the property, and who will be responsible for the continued retention and compensation of tax service; or that the vendor should otherwise assure for himself that the taxes on the property have been paid.

(n) A disclosure whether the security documents on the financing

being arranged have been or will be recorded pursuant to Section 27280 of the Government Code, or a statement that the security of the vendor may be subject to intervening liens or judgments which may occur after the note is executed and before any resort to security occurs if the security documents are not recorded.

(o) If the purchaser is to receive any cash from the proceeds of the transaction, a statement of that fact, the amount, the source of the funds, and the purpose of the disbursement as represented by the purchaser.

2964. The specification of items for disclosure in this article does not limit or abridge any obligation for disclosure created by any other provision of law or which may exist in order to avoid fraud, misrepresentation, or deceit in the transaction.

2965. The validity of any credit document or of any security document subject to the provisions of this article shall not be invalidated solely because of the failure of any person to comply with this article. However, any person who willfully violates any provision of this article shall be liable in the amount of actual damages suffered by the vendor or purchaser as the proximate result of the violation.

No person may be held liable in any action under this article if it is shown by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

2966. (a) In a transaction regulated by this article, which includes a balloon payment note, the holder of such note shall, not less than 60 nor more than 150 days before the balloon payment is due, deliver or mail by first-class mail to the trustor, or his or her successor in interest, at the last known address of such person a written notice, to include:

(1) A statement of the name and address of the person to whom the balloon payment is required to be paid.

(2) The date on or before which the balloon payment was or is required to be paid.

(3) The amount of the balloon payment, or if its exact amount is unknown a good faith estimate of the amount thereof, including unpaid principal, interest, and any other charges (assuming payment in full of all scheduled installments coming due between the date of the notice and the date when the balloon payment is due).

(4) A description of the trustor's right, if any, to refinance the balloon payment, including a summary of the actual terms of the refinancing or an estimate or approximation thereof, to the extent known.

(b) Failure to provide notice as required by subdivision (a) does not extinguish any obligation of payment by the trustor, except that the due date for any balloon payment shall be the date specified in the note, or 60 days from the date the delivery or mailing of the notice, or the date specified in the notice, whichever date is later. If the operation of this section acts to extend the term of any such note,

interest shall continue to accrue for the extended term at the contract rate and payments shall continue to be due at any periodic interval and on any scheduled payment schedule specified in the note and shall be credited to principal or interest under terms of the note. Default in any extended periodic payment shall be considered a default under terms of the note or security instrument.

(c) 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.

(d) Every note subject to the provisions of this section shall include the following statement:

"This note is subject to Section 2966 of the Civil Code, which provides that the holder of this note shall give written notice to the trustor, or his successor in interest, of prescribed information at least 60 and not more than 150 days before any balloon payment is due."

Failure to include this notice shall not invalidate the note.

(e) The provisions of this section shall apply to any note executed on or after July 1, 1983.

2967. Any action arising under this article may be brought within two years from the date on which the liability arises, except that where any material disclosure under this article has been materially and willfully misrepresented, the action may be brought within two years of discovery of the misrepresentation.

SEC. 2. This act shall become operative on July 1, 1983.

CHAPTER 969

An act to amend Section 18716 of the Business and Professions Code, relating to boxing.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 18716 of the Business and Professions Code is amended to read:

18716. A manager of a professional boxer licensed under this chapter shall, beginning January 1, 1983, maintain an accurate annual record showing all of the following with respect to each contest in which the professional boxer has participated in California:

(a) Training expenses.

(b) Amount of money actually paid to the boxer.

(c) Amount of money which the manager received from the purse.

(d) Amount of money owed to the manager by the boxer.

The manager's record shall be supported by documentation, shall be made available to both the boxer under contract and the

commission upon request, and be kept in the manager's possession for a period of five years.

CHAPTER 970

An act to amend Section 51241 of the Education Code, relating to schools.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 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 may grant temporary exemption to a pupil from courses in physical education, if the pupil is:

(1) Ill or injured and a modified program to meet the needs of the pupil cannot be provided; or

(2) Enrolled for one-half, or less, of the work normally required of full-time pupils.

(b) The governing board of any school district may, with the consent of a pupil, grant the pupil exemption from courses in physical education for two years anytime during grades 10 to 12, inclusive.

(c) The governing board of any school district may grant permanent exemption from courses in physical education if the pupil:

(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.

(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. 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 AB 2389 are both chaptered and become effective January 1, 1983, both bills amend Section 51241 of the Education Code, and this bill is chaptered after AB 2389, 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 AB 2389 are both chaptered and become effective January 1, 1983, both amend Section 51241, and this bill is chaptered after AB 2389, in which case Section 1 of this act shall not become operative.

CHAPTER 971

An act to add Section 31641.04 to the Government Code, relating to the County Employees Retirement Law of 1937, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 31641.04 is added to the Government Code, to read:

31641.04. (a) When the board of supervisors, by resolution, determines that because of an impending curtailment of service or change in the manner of performing service, savings of money, or other economic benefit resulting to the county, the best interests of the county would be served, a member shall be eligible to receive

additional service credit if the following conditions exist:

(1) The member is employed in a job classification, county department, or other county organizational unit included in the resolution adopted by the board of supervisors.

(2) The member retires on or between dates specified by the board of supervisors in its resolution. In no event shall the specified period exceed 180 days.

(3) The county transmits to the retirement fund an amount determined by the board of retirement 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 county and the board of retirement.

(b) The amount of service credit shall be that amount as the board of supervisors determines but shall not be more than two years regardless of credited service and 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.

(c) A county which elects to make the payment prescribed by subdivision (a) shall make such payment with respect to all eligible employees who retire during the period specified by the board of supervisors.

(d) This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments during the period six months prior to the period specified pursuant to subdivision (a). This section shall not be applicable to any member if the member is not eligible to retire without the additional credit available under this section.

(e) This section shall not be applicable in any county until it is adopted by ordinance of the board of supervisors. Any county may adopt or readopt this section from time to time as conditions may warrant. This section shall not be applicable in any district whose employees are members of the system pursuant to Section 31557 until it is adopted by ordinance by the governing body of the district. Any district whose employees are members of the system pursuant to Section 31557 may adopt or readopt this section from time to time as conditions warrant.

(f) Any member who qualifies under this section upon subsequent reentry to county employment shall forfeit the service credit acquired under this section.

(g) This section shall not be subject to the provisions of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1.

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:

The close of the current fiscal year may result in many counties laying off a number of their employees. In order to serve the best

economic interests of many counties, it is necessary that the provisions of this act go into effect immediately.

CHAPTER 972

An act to amend Sections 1634 and 12412 of, and to add Section 12408.5 to, the Insurance Code, relating to insurance.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 1634 of the Insurance Code is amended to read:

1634. No license is required under the provisions of this chapter for a person to act in the following capacities:

(a) As a full-time salaried employee of a title insurer, controlled escrow company or an underwritten title company;

(b) As a salaried solicitor or agent of a mortgage insurer or mortgage guaranty insurer provided no part of the compensation of such person is on a commission basis;

(c) As the attorney in fact of a reciprocal or interinsurance exchange;

(d) As a life insurance analyst;

(e) As a surplus line broker or special lines surplus line broker;

(f) As a bail agent, bail solicitor or bail permittee; or

(g) As as employee, not paid on a commission basis, of a home protection company.

SEC. 2. Section 12408.5 is added to the Insurance Code to read:

12408.5. (a) Notwithstanding any other provision of this article no title insurer, no controlled escrow company, and no underwritten title company shall pay any commission for the solicitation or negotiation of any services constituting the business of title insurance.

(b) The provisions of subdivision (a) notwithstanding, a title insurer, controlled escrow company, or underwritten title company may pay to full-time salaried employees a commission, incentive compensation or bonuses based on any such employees' level of production of any services constituting the business of title insurance. Any title insurer, controlled escrow company, or underwritten title company and, where applicable their affiliates, which makes such payments shall maintain adequate records detailing the conditions to receipt of any commission, incentive compensation or bonus, the recipient thereof and the amount paid.

(c) Any employee of a title insurer, underwritten title company, or controlled escrow company shall not, directly or indirectly, pay or offer to pay, either directly or indirectly, any part of his or her

compensation, whether denominated salary, incentive compensation, or bonuses to any person or entity defined in Section 12404, as an inducement for, or as compensation for, any title insurance business or any escrow or other title business, and any payment or offer to pay this consideration is an unlawful rebate.

SEC. 3. Section 12412 of the Insurance Code is amended to read:

12412. Nothing in this article prohibits the division of fees or charges, for work and services actually performed, between title insurers or between title insurers and underwritten title companies or between underwritten title companies, if such division does not constitute an unlawful rebate as defined by Section 12404.5, or is prohibited by Section 12405.7 or 12408.5. However, a title insurer shall specify on any title policy issued by it, either in a single amount or by itemization, the entire charge made to obtain such title policy, including the charges made by any underwritten title company for the title search, title examination, certificate or abstract of title upon the basis of which such title policy is issued. If so specified in a single amount, such charge shall be clearly described as the total charge for both the title insurance fee and the title search or examination, or abstract of title, as the case may be, of any underwritten title company.

CHAPTER 973

An act to amend Section 13507 of the Penal Code, relating to the Commission on Peace Officer Standards and Training, and making an appropriation therefor.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 13507 of the Penal Code is amended to read:

13507. As used in this chapter, "district" means any of the following:

(a) A regional park district.

(b) A district authorized by statute to maintain a police department.

(c) The University of California.

(d) The California State University and Colleges.

(e) A community college district.

(f) A school district.

SEC. 2. In order to accommodate (1) law enforcement's effort to suppress crime and ensure public safety through properly trained peace officers, (2) the financial impact of this bill and Chapters 710 and 966 of the Statutes of 1981, as well as other similar pending bills, (3) rising costs related to trainee per diem and travel, and (4)

necessary levels of peace officer standards and training reimbursement for state-mandated costs, the sum of three million dollars ($3,000,000) is hereby appropriated from the Peace Officers' Training Fund to the Commission on Peace Officer Standards and Training, Program 40, for allocation to cities, counties, and districts, pursuant to Section 13523 of the Penal Code, as a supplemental allocation to augment the existing appropriation for the 1982–83 fiscal year.

CHAPTER 974

An act to amend Sections 4000 and 22511.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 4000 of the Vehicle Code is amended to read:

4000. (a) No person shall drive, move, or leave standing upon a highway, or in an offstreet public parking facility, any motor vehicle, trailer, semitrailer, pole or pipe dolly, logging dolly, or auxiliary dolly unless it is registered and the appropriate fees have been paid under this code.

For the purposes of this subdivision, "offstreet parking facility" means any publicly owned parking facility, and any privately owned parking facility for which no fee for the privileges to park is charged and which is held open for the common public use of retail customers of more than one retail store. This subdivision shall not apply to any motor vehicle stored in a privately owned offstreet parking facility by, or with the express permission of, the owner of the privately owned offstreet parking facility.

(b) No person shall drive, move, or leave standing upon a highway any motor vehicle, as defined in Chapter 2 (commencing with Section 39010), Part 1, Division 26 of the Health and Safety Code, which has been registered in violation of Part 5 (commencing with Section 43000) of that Division 26.

(c) The provisions of this section shall not apply, following payment of fees due for registration, during such time that registration and transfer is being withheld by the department pending the investigation of any use tax due under the provisions of the Revenue and Taxation Code.

(d) When a vehicle is towed by a tow car on order of a sheriff, marshal, or other official acting pursuant to a court order or on order of a peace officer acting pursuant to the provisions of Chapter 10 (commencing with Section 22650) of Division 11, the provisions of

subdivision (a) of this section shall not apply.

(e) This section shall not apply to any off-highway vehicle which displays an identification plate or device issued for the vehicle by the department.

SEC. 2. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) A disabled person is:

(1) Any person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device.

(2) Any person who is blind to such an extent that the person's central visual acuity does not exceed 20/200 in the better eye, with corrective lenses, as measured by the Snellen test, or visual acuity that is greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than 20 degrees.

(3) Any person who suffers from lung disease to such an extent that his forced (respiratory) expiratory volume one second, when measured by spirometry, is less than one liter or his arterial oxygen tension (pO_2) is less than 60 mm/Hg on room air at rest.

(4) Any person who is impaired by cardiovascular disease to the extent that his functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association.

(b) Disabled persons shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted and shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section shall not apply to those zones in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

(c) As a condition to this privilege, the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person, or a vehicle which is not registered to the disabled person, but which is used primarily to transport a disabled person and which would otherwise qualify for a distinguishing license plate if the vehicle were registered to the disabled person. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by the department.

(d) Any disabled person, or vehicle owner as provided in subdivision (c), may also apply to the Department of Motor Vehicles for issuance of a distinguishing placard for parking purposes when displayed on the driver's side dashboard of a vehicle. The placard shall be at least 6 inches by 12 inches in size and blue in color.

The Department of Motor Vehicles may establish procedures for the issuance of the placards. The Department of Motor Vehicles may

charge a fee sufficient to pay the actual cost to the department for issuance of placards.

(e) Prior to issuing a disabled person plate or placard, the Department of Motor Vehicles may require a certificate, signed by a licensed physician or surgeon. The blindness of any person applying shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(f) A person who is temporarily disabled for a period of less than one year, may apply for a placard as prescribed in subdivision (d).

(g) Disabled persons shall be allowed to park a vehicle displaying a distinguishing disabled person or disabled veteran license plate or placard issued by a foreign jurisdiction with the same parking privileges authorized in this code as a vehicle issued a distinguishing disabled person or disabled veteran license plate or placard by the Department of Motor Vehicles.

SEC. 3. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) A disabled person is:

(1) Any person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device

(2) Any person who is blind to such an extent that the person's central visual acuity does not exceed 20/200 in the better eye, with corrective lenses, as measured by the Snellen test, or visual acuity that is greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than 20 degrees.

(3) Any person who suffers from lung disease to such an extent that his forced (respiratory) expiratory volume one second when measured by spirometry is less than one liter or his arterial oxygen tension (pO_2) is less than 60 mm/Hg on room air at rest.

(4) Any person who is impaired by cardiovascular disease to the extent that his functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association.

(b) Disabled persons shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted and shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section shall not apply to those zones in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

(c) As a condition to this privilege, the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person, or a vehicle which is not registered to the disabled person, but which is used primarily to transport a disabled person and which would otherwise qualify for a

distinguishing license plate if the vehicle were registered to the disabled person. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by the department.

(d) Any disabled person, or vehicle owner as provided in subdivision (c), may also apply to the Department of Motor Vehicles for issuance of a distinguishing placard for parking purposes when displayed on the driver's side dashboard of a vehicle. It is the intent of the Legislature to hereby encourage the use of these distinguishing placards which, when displayed in conjunction with the distinguishing license plate, provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be at least 6 inches by 12 inches in size and blue in color.

The Department of Motor Vehicles may establish procedures for the issuance of the placards. The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to the department for issuance of placards.

(e) Prior to issuing a disabled person plate or placard, the Department of Motor Vehicles may require a certificate, signed by a licensed physician or surgeon. The blindness of any person applying shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(f) A person who is temporarily disabled for a period of less than one year, may apply for a placard as prescribed in subdivision (d).

(g) Disabled persons shall be allowed to park a vehicle displaying a distinguishing disabled person or disabled veteran license plate or placard issued by a foreign jurisdiction with the same parking privileges authorized in this code as a vehicle issued a distinguishing disabled person or disabled veteran license plate or placard by the Department of Motor Vehicles.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 3053 are both chaptered and become effective January 1, 1983, both bills amend Section 22511.5 of the Vehicle Code, and this bill is chaptered after Assembly Bill 3053, that the amendments to Section 22511.5 proposed by both bills be given effect and incorporated in Section 22511.5 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Assembly Bill 3053 are both chaptered and become effective January 1, 1983, both amend Section 22511.5, and this bill is chaptered after Assembly Bill 3053, in which case Section 2 of this act shall not become operative.

SEC. 5. 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 975

An act to amend Sections 4460, 4461, 4463, 9105, 21107.8, 22511.5, 22511.8, 40000.7, and 42001.5 of, and to add Sections 22511.9 and 22652 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1982 Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 4460 of the Vehicle Code is amended to read:

4460. The Department of Motor Vehicles, the Traffic Adjudication Board, and the Department of the California Highway Patrol or any regularly employed and salaried police officer or deputy sheriff may take possession of any certificate, card, placard, permit, license, or license plate issued under this code upon expiration, revocation, cancellation, or suspension thereof or which is fictitious or which has been unlawfully or erroneously issued. Any license plate which is not attached to the vehicle for which issued, when and in the manner required under this code may be seized, and attachment to the proper vehicle may be made or required.

Any such document, placard, or license plate seized shall be delivered to the Department of Motor Vehicles.

SEC. 2. Section 4461 of the Vehicle Code is amended to read:

4461. (a) No person shall lend any certificate of ownership, registration card, license plate, special plate, or permit issued to him or her if the person desiring to borrow it would not be entitled to its use, nor shall any person knowingly permit its use by one not entitled to it.

(b) No person shall lend any disabled person placard issued to him or her if the person desiring to borrow it is not entitled to its use, nor shall any person knowingly permit its use by one not entitled to it. A violation of this subdivision is a misdemeanor.

For purposes of this subdivision, "disabled person placard" means a placard issued pursuant to Section 22511.5 or 22511.9.

SEC. 3. Section 4463 of the Vehicle Code is amended to read:

4463. (a) Every person who, with intent to prejudice, damage, or defraud, commits any of the following acts is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison for 16 months, two or three years, or by imprisonment in the county jail for not more than one year:

(1) Alters, forges, counterfeits, or falsifies any certificate of ownership, registration card, certificate, license, or special plate or permit provided for by this code or any comparable certificate of

ownership, registration card, certificate, license, or special plate or permit relating to motor vehicles provided for by any foreign jurisdiction, or alters, forges, counterfeits, or falsifies any such document or plate with intent to represent it as issued by the department, or alters, forges, counterfeits, or falsifies with fraudulent intent any endorsement of transfer on a certificate of ownership, or with fraudulent intent displays or causes or permits to be displayed or have in his or her possession any blank, incomplete, canceled, suspended, revoked, altered, forged, counterfeit, or false certificate of ownership, registration card, certificate, license, or special plate or permit.

(2) Utters, publishes, passes, or attempts to pass, as true and genuine, any false, altered, forged, or counterfeited matter listed in subdivision (a) knowing it to be false, altered, forged, or counterfeited.

(3) Acquires, possesses, sells, or offers for sale a genuine or counterfeit vehicle manufacturer's serial or identification number plate.

(b) Every person who, with intent to prejudice, damage, or defraud, commits any of the following acts is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for six months or by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by both that fine and imprisonment, which penalty shall not be suspended:

(1) Forges, counterfeits, or falsifies any disabled person placard or any comparable placard relating to parking privileges for disabled persons provided for by any foreign jurisdiction, or forges, counterfeits, or falsifies any disabled person placard with intent to represent it as issued by the department.

(2) Passes, or attempts to pass, as true and genuine, any false, forged, or counterfeit disabled person placard knowing it to be false, forged, or counterfeited.

(3) Acquires, possesses, sells, or offers for sale a genuine or counterfeit disabled person placard.

(c) Every person who, with fraudulent intent, displays or causes or permits to be displayed any forged, counterfeit, or false disabled person placard, is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for six months or by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by both that fine and imprisonment, which penalty shall not be suspended.

(d) For purposes of subdivision (b) or (c), "disabled person placard" means a placard issued pursuant to Section 22511.5 or 22511.9.

SEC. 4. Section 9105 of the Vehicle Code is amended to read:

9105. The fees specified in this code except fees for duplicate plates, certificates, or cards need not be paid for any of the following vehicles, which are of a type subject to registration under this code,

and which are not used for transportation for hire, compensation, or profit, when owned by any disabled veteran as described in Section 22511.9:

(a) Any passenger motor vehicle.

(b) Any motorcycle.

(c) Any commercial motor vehicle of less than 6,001 pounds unladen weight.

The exemption granted by this section shall not extend to more than one vehicle owned by any disabled veteran.

SEC. 5. Section 21107.8 of the Vehicle Code is amended to read:

21107.8. (a) Any city or county may, by ordinance or resolution, find and declare that there are privately owned and maintained offstreet parking facilities as described in the ordinance or resolution within the city or county that are generally held open for use of the public for purposes of vehicular parking. Upon enactment by a city or county of the ordinance or resolution, Sections 22350, 23103, and 23109 and the provisions of Division 16.5 (commencing with Section 38000) shall apply to privately owned and maintained offstreet parking facilities, except as provided in subdivision (b).

(b) Notwithstanding the provisions of subdivision (a), no ordinance or resolution enacted thereunder shall apply to any offstreet parking facility described therein unless the owner or operator has caused to be posted in a conspicuous place at each entrance to that offstreet parking facility a notice not less than 17 by 22 inches in size with lettering not less than one inch in height, to the effect that the offstreet parking facility is subject to public traffic regulations and control.

(c) No ordinance or resolution shall be enacted under subdivision (a) without a public hearing thereon and 10 days prior written notice to the owner and operator of the privately owned and maintained offstreet parking facility involved.

(d) Section 22507.8 may be enforced without enactment of an ordinance or resolution as required under subdivision (a) or the posting of a notice at each entrance to the offstreet parking facility as required under subdivision (b).

(e) The department shall not be required to provide patrol or enforce any provisions of this code on any privately owned and maintained offstreet parking facility subject to the provisions of this code under this section except those provisions applicable to private property other than by action under this section.

SEC. 6. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) A disabled person is:

(1) Any person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device.

(2) Any person who is blind to such an extent that the person's

central visual acuity does not exceed 20/200 in the better eye, with corrective lenses, as measured by the Snellen test, or visual acuity that is greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than 20 degrees.

(3) Any person who suffers from lung disease to such an extent that his forced (respiratory) expiratory volume one second when measured by spirometry is less than one liter or his arterial oxygen tension (pO_2) is less than 60 mm/Hg on room air at rest.

(4) Any person who is impaired by cardiovascular disease to the extent that his functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association.

(b) Disabled persons shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted and shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section shall not apply to those zones in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

(c) As a condition to this privilege, the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person, or a vehicle which is not registered to the disabled person, but which is used primarily to transport a disabled person and which would otherwise qualify for a distinguishing license plate if the vehicle were registered to the disabled person. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by the department.

(d) Any disabled person, or vehicle owner as provided in subdivision (c) of this section, may also apply to the Department of Motor Vehicles for issuance of a distinguishing placard for parking purposes when displayed on the driver's side dashboard of a vehicle. It is the intent of the Legislature to hereby encourage the use of these distinguishing placards which, when displayed in conjunction with the distinguishing license plate, provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be at least six inches by 12 inches in size and blue in color.

The Department of Motor Vehicles may establish procedures for the issuance of the placards. The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to the department for issuance of placards.

(e) Prior to issuing a disabled person plate or placard, the Department of Motor Vehicles may require a certificate, signed by a licensed physician or surgeon. The blindness of any person applying shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(f) A person who is temporarily disabled for a period of less than

one year, may apply for a placard as prescribed in subdivision (d) of this section.

SEC. 6.5. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) A disabled person is:

(1) Any person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device.

(2) Any person who is blind to such an extent that the person's central visual acuity does not exceed 20/200 in the better eye, with corrective lenses, as measured by the Snellen test, or visual acuity that is greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than 20 degrees.

(3) Any person who suffers from lung disease to such an extent that his forced (respiratory) expiratory volume one second when measured by spirometry is less than one liter or his arterial oxygen tension (pO_2) is less than 60 mm/Hg on room air at rest.

(4) Any person who is impaired by cardiovascular disease to the extent that his functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association.

(b) Disabled persons shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted and shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section shall not apply to those zones in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

(c) As a condition to this privilege, the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person, or a vehicle which is not registered to the disabled person, but which is used primarily to transport a disabled person and which would otherwise qualify for a distinguishing license plate if the vehicle were registered to the disabled person. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by the department.

(d) Any disabled person, or vehicle owner as provided in subdivision (c), may also apply to the Department of Motor Vehicles for issuance of a distinguishing placard for parking purposes when displayed on the driver's side dashboard of a vehicle. It is the intent of the Legislature to hereby encourage the use of these distinguishing placards which, when displayed in conjunction with the distinguishing license plate, provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be at least six

inches by 12 inches in size and blue in color.

The Department of Motor Vehicles may establish procedures for the issuance of the placards. The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to the department for issuance of placards.

(e) Prior to issuing a disabled person plate or placard, the Department of Motor Vehicles may require a certificate, signed by a licensed physician or surgeon. The blindness of any person applying shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(f) A person who is temporarily disabled for a period of less than one year, may apply for a placard as prescribed in subdivision (d).

(g) Disabled persons shall be allowed to park a vehicle displaying a distinguishing disabled person or disabled veteran license plate or placard issued by a foreign jurisdiction with the same parking privileges authorized in this code as a vehicle issued a distinguishing disabled person or disabled veteran license plate or placard by the Department of Motor Vehicles.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 3270 are both chaptered and become effective January 1, 1983, both bills amend Section 22511.5 of the Vehicle Code, and this bill is chaptered after Assembly Bill 3270, that the amendments to Section 22511.5 proposed by both bills be given effect and incorporated in Section 22511.5 in the form set forth in Section 6.5 of this act. Therefore, Section 6.5 of this act shall become operative only if this bill and Assembly Bill 3270 are both chaptered and become effective January 1, 1983, both amend Section 22511.5, and this bill is chaptered after Assembly Bill 3270, in which case Section 6 of this act shall not become operative.

SEC. 7. Section 22511.8 of the Vehicle Code is amended to read:

22511.8. Any local authority, by ordinance or resolution, and any person in lawful possession of an offstreet parking facility may designate stalls or spaces in an offstreet parking facility owned or operated by the local authority or person for the exclusive use of vehicles which display a distinguishing license plate or a placard issued pursuant to Section 22511.5 or to disabled veterans, as specified in Section 22511.9. The designation shall be made by posting immediately adjacent to, and visible from, each stall or space, a sign consisting of a profile view of a wheelchair with occupant in white on a blue background or by outlining the stall or space in blue markings and outlining on the ground in the stall or space a similar profile view depicting a wheelchair with occupant.

The owner or person in lawful possession of an offstreet parking facility, after notifying the police or sheriff's department, as the case may be, and any local authority owning or operating an offstreet parking facility, may cause the removal, from a stall or space designated for physically handicapped persons in the facility to the nearest public garage, of any vehicle not displaying one of the distinguishing placards or license plates specified in this section if

there is posted immediately adjacent to, and visible from, the stall or space, or, if there is posted, in a conspicuous place at each entrance to the offstreet parking facility, not less than 17 by 22 inches in size with lettering not less than one inch in height, a sign which clearly and conspicuously states the following: "Unauthorized vehicles not displaying distinguishing placards or license plates issued for physically handicapped persons will be towed away at owner's expense. Towed vehicles may be reclaimed at

_____or by telephoning

(Address)

_____."

(Telephone number of local law enforcement agency)

The provisions of this section shall not be construed to restrict the privilege granted to disabled veterans by Section 22511 and to disabled persons by Section 22511.5.

SEC. 8. Section 22511.9 is added to the Vehicle Code, to read:

22511.9. (a) A disabled veteran is a veteran who, as a result of injury or disease suffered while on active service with the armed forces of the United States:

(1) Has a disability which has been rated, by the United States Veterans Administration or the military service from which the veteran was discharged, at 100 percent due to a diagnosed disease or disorder which substantially impairs or interferes with mobility.

(2) Is so severely disabled as to be unable to move without the aid of an assistant device.

(3) Has lost, or has lost use of, two or more limbs, or one eye and any limb, or has suffered permanent blindness as defined in Section 19153 of the Welfare and Institutions Code.

(b) Disabled veterans shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted and shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section shall not apply to those zones in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

(c) As a condition to this privilege, the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled veteran. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by the department.

(d) Any disabled veteran who qualifies for issuance of, and has been issued, a distinguishing license plate, may apply to the Department of Motor Vehicles for issuance of a distinguishing placard. It is the intent of the Legislature to hereby encourage the use of these distinguishing placards which, when displayed in conjunction with the distinguishing license plate, provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard may be used in lieu of the distinguishing license plate for

parking purposes when displayed on the driver's side dashboard of a vehicle. The placard shall be at least 6 inches by 12 inches in size, and blue in color.

The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to the department for issuance of placards. The Department of Motor Vehicles may establish procedures for the issuance of the placard.

(e) Prior to issuing a disabled veteran plate or placard, the Department of Motor Vehicles may require a certificate, substantiating the disability, signed by a physician or surgeon.

SEC. 9. Section 22652 is added to the Vehicle Code, to read:

22652. 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 may remove any vehicle from a stall or space designated for physically handicapped persons, located within the territory limits in which the officer or employee is empowered to act, if the vehicle is parked in violation of Section 22507.8.

This section shall apply only to those stalls and spaces for which the notice requirements under Section 22511.8 have been complied with or are clearly marked as a tow zone for unlawfully parked vehicles.

SEC. 10. Section 40000.7 of the Vehicle Code is amended to read:

40000.7. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Section 2416, relating to regulations for emergency vehicles.

Section 2800, relating to failure to obey an officer's lawful order or submit to a lawful inspection.

Section 2800.1, relating to fleeing from a peace officer.

Section 2801, relating to failure to obey a fireman's lawful order.

Section 2803, relating to unlawful vehicle or load.

Section 2813, relating to stopping for inspection.

Section 2815, relating to failure to obey a crossing guard's traffic signal or direction.

Subdivision (b) of Section 4461 and subdivisions (b) and (c) of Section 4463, relating to disabled person placards.

Section 5753, relating to delivery of certificates of ownership and registration when committed by a dealer or any person while a dealer within the preceding 12 months.

Section 5901, relating to dealers and lessor-retailers giving notice.

Section 5901.1, relating to lessors giving notice and failure to pay fee.

Section 8802, relating to the return of canceled, suspended, or revoked certificates of ownership, registration cards, or license plates, when committed by any person with intent to defraud.

Section 8803, relating to return of canceled, suspended, or revoked documents and license plates of a dealer, manufacturer, transporter, dismantler, or salesman.

SEC. 11. Section 42001.5 of the Vehicle Code is amended to read:

42001.5. (a) Every person convicted of an infraction for a violation of Section 22523 shall be punished by a fine of not less than fifty dollars ($50).

(b) Every person convicted of an infraction for a violation of Section 22507.8 shall be punished by a fine of not less than fifty dollars ($50).

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 976

An act to amend Sections 99400 and 99405 of, and to repeal Sections 99400 and 99405 of, the Public Utilities Code, relating to transportation.

[Approved by Governor September 12, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 99400 of the Public Utilities Code, as amended by Chapter 296 of the Statutes of 1980, is amended to read:

99400. Claims may be filed under this article with the transportation planning agency by cities and counties for the following purposes and by transit districts for the purposes specified in subdivision (c):

(a) Local streets and roads, including facilities provided for exclusive use by pedestrians and bicycles.

(b) Payments to the National Railroad Passenger Corporation for passenger rail service under Section 403(b) of the Federal Rail Passenger Service Act (45 U.S.C. Sec. 563(b)).

(c) Payment to any of the following entities which are under contract with a county, city, or transit district for public transportation or for transportation services for any group, as determined by the transportation planning agency, requiring special transportation assistance:

(1) A common carrier, as defined in Section 211, engaged in the transportation of persons, as defined in Section 208.

(2) A private entity operating under a franchise or license.

(3) A nonprofit corporation organized pursuant to Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code.

(4) An operator.

(5) A county service area.
(6) A community services district.
(7) A recreation and park district.
(8) A public utility district.

If the county, city, or transit district is being served by an operator, the contract entered into by the county, city, or transit district with an entity specified in paragraph (1), (2), (3), (5), (6), (7), or (8) of subdivision (c) shall specify the level of service to be provided, the operating plan to implement that service, and how that service is to be coordinated with the public transportation service provided by the operator. Prior to approving any claim filed under this section, the transportation planning agency, or the county transportation commission in a county with such a commission, shall make a finding that the transportation services contracted for under subdivision (c) are responding to a transportation need not currently being met within the community or jurisdiction of the claimant and that, where appropriate, the services are integrated with the existing transportation service.

(d) Payments to counties and cities for their administrative and planning cost with respect to transportation services under subdivision (c).

SEC. 2. Section 99400 of the Public Utilities Code, as amended by Section 27 of Chapter 1002 of the Statutes of 1979, is repealed.

SEC. 3. Section 99405 of the Public Utilities Code, as amended by Section 9.2 of Chapter 1055 of the Statutes of 1981, is amended to read:

99405. (a) Except as otherwise provided in this section, the allocation for any purpose specified in Section 99400 may in no year exceed 50 percent of the amount required to meet the city's or county's total proposed expenditures for that purpose.

(b) With respect to budgeted capital requirements for major new facilities, the transportation planning agency, notwithstanding the 50-percent limitation, may allocate up to the amount so budgeted, if the construction of such facilities has been found to be not inconsistent with the transportation planning agency's regional transportation plan.

(c) The 50-percent limitation shall not apply to the allocation to a city, county, or transit district for services under contract pursuant to subdivision (c) of Section 99400. The city, county, or transit district shall be subject to Section 99268.3, 99268.4, 99268.5, or 99268.9, as the case may be, and shall be deemed an operator for purposes of those sections, or shall be subject to regional, countywide, or county subarea performance criteria, local match requirements, or fare recovery ratios adopted by resolution of the transportation planning agency or the county transportation commission for those services.

(1) In adopting the performance criteria, local match requirements, or fare recovery ratios, the transportation planning agency or the county transportation commission may adopt the criteria of Section 99268.3, 99268.4, 99268.5, or 99268.9, or any

combination or all of them.

(2) If a transportation planning agency or county transportation commission has adopted performance criteria, local match requirements, or fare recovery ratios, the rules and regulations of the agency or commission shall apply, and Sections 99205.7 and 99241, subdivision (a) of Section 99247, and Section 99268.8 shall not apply.

(d) The 50-percent limitation shall not apply to funds allocated under this article to a city or county with a population of less than 5,000.

(e) The 50-percent limitation shall not apply to funds allocated under this article for local street and road purposes.

SEC. 4. Section 99405 of the Public Utilities Code, as added by Section 9.4 of Chapter 1055 of the Statutes of 1981, is repealed.

CHAPTER 977

An act to amend Sections 224n and 226 of the Civil Code, to amend Section 10430 of the Health and Safety Code, to amend Sections 300, 358, 11209, 11210, 11214, 11400, 11404, 11404.2, 11450, 15200, 16115, 16115.5, 16116, and 16118 of, to add Sections 300.1, 11402.5, 11404.1, 11409, 11460, 11461, 11462, 11462.5, 11463, 15200.5, 16120, 16121, 16122, 16123 to, and to repeal Sections 11404, 11461, 16117, 16120, 16120.1, 16120.5, 16121, 16121.1, and 16122 of, the Welfare and Institutions Code, relating to adoption assistance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 224n of the Civil Code is amended to read:

224n. (a) The department or licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights shall be responsible for the care of the child, and shall be entitled to the exclusive custody and control of the child until either an interlocutory decree of adoption or a final decree of adoption has been granted. Any placement for temporary care, or for adoption made by the department or a licensed adoption agency, may be terminated at its discretion at any time prior to the granting of an interlocutory decree of adoption or final decree of adoption. In the event of termination of any placement for temporary care or for adoption, the child shall be returned promptly to the physical custody of the agency.

No petition may be filed to adopt a child relinquished to the department or a licensed adoption agency or a child declared free from the custody and control of either or both of his parents and

referred to the department or a licensed adoption agency for adoptive placement, except by the prospective adoptive parents with whom the child has been placed for adoption by the department or licensed adoption agency. After the petition for adoption has been filed, the department or licensed adoption agency may remove the child from the prospective adoptive parents only with the approval of the court, upon motion by the department or a licensed adoption agency after notice to the prospective adoptive parents, supported by an affidavit or affidavits stating the grounds on which removal is sought. If the department or a licensed adoption agency refuses to consent to the adoption of a child by the person or persons with whom the department or licensed adoption agency placed the child for adoption, the superior court may nevertheless decree the adoption if it finds that the refusal to consent is not in the best interest of the child.

(b) The petitioner for adoption and the department or a licensed adoption agency having exclusive custody of the child may jointly petition the court for an interlocutory decree of adoption for a child eligible for aid under the Adoption Assistance Program. The court receiving such a petition may grant an interlocutory decree of adoption, which gives the petitioner legal custody of the child, if the court finds the child to be free for adoption, and which shall become a final decree of adoption upon the expiration of not more than 12 months from entry, unless a motion to set aside this decree, or to shorten or extend the interlocutory period, has been filed with the court.

The petitioner for adoption or the department or licensed adoption agency may file a motion with the court for an order rescinding the interlocutory decree of adoption. The motion shall be supported by an affidavit stating the grounds upon which the decree should be rescinded. A copy of the motion and notice of the hearing on the motion shall be served upon the other petitioners for the interlocutory decree of adoption at least 10 days before the hearing. The court, after proof of notice and after giving the parties an opportunity to be heard on the motion, may enter an order rescinding the interlocutory decree of adoption.

An interlocutory decree of adoption shall become a final decree of adoption 12 months after entry of the interlocutory decree, unless the 12-month period is shortened or extended for good cause by the court upon motion of a party to the petition for adoption. In no event shall the extension granted exceed an additional six months.

A final decree of adoption pursuant to Section 227 may not be entered less than six months after issuance of an interlocutory decree of adoption if such an interlocutory decree has been issued pursuant to this section.

For purposes of this section, the "department" means the State Department of Social Services.

SEC. 2. Section 226 of the Civil Code is amended to read:

226. Any person desiring to adopt a child may for that purpose

petition the superior court of the county in which the petitioner resides and the clerk of the court shall immediately notify the State Department of Social Services at Sacramento in writing of the pendency of the action of any subsequent action taken, and of the date on which an interlocutory decree has become a final decree of adoption. In all cases in which consent is required, except in the case of an adoption by a stepparent where one natural or adoptive parent retains his or her custody and control of the child, unless an agency licensed by the State Department of Social Services to find homes for children and place children in homes for adoption joins in the petition for adoption, the petition shall contain an allegation that the petitioners will file promptly with the department or the county adoption agency information required by the department in the investigation of the proposed adoption. The omission of such allegation from a petition so filed shall not, however, affect the jurisdiction of the court to proceed, nor shall it have heretofore affected the jurisdiction of any court to have proceeded, upon such petition omitting such allegation, in any manner provided in this chapter or otherwise, nor shall such omission have affected or affect the validity of any decree of adoption or other order heretofore or hereafter made by any court with respect to such petition omitting such allegation.

The caption of the petition for adoption of a minor shall contain the name or names of the petitioners but shall not contain the name of the minor. The petition shall contain the sex and date of birth of the minor. The name that the minor had prior to adoption shall appear in the petition or, in the case where a licensed adoption agency joins in the petition, the name may appear in the joinder signed by the adoption agency. The decree of adoption shall contain the adopted name of the minor but shall not contain the name that the minor had prior to adoption.

SEC. 2.3. Section 10430 of the Health and Safety Code is amended to read:

10430. The clerk of the court shall complete a report upon a form provided for that purpose and forward the report to the State Registrar within five days after a decree of adoption has been entered declaring a child legally adopted by any court in the state. Such report shall be forwarded within five days after an interlocutory decree of adoption becomes a final decree of adoption, and not earlier.

SEC. 2.5. Section 300 of the Welfare and Institutions Code is amended to read:

300. Any person under the age of 18 years who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge such person to be a dependent child of the court:

(a) Who is in need of proper and effective parental care or control and has no parent or guardian, or has no parent or guardian willing to exercise or capable of exercising such care or control, or has no

parent or guardian actually exercising such care or control. No parent shall be found to be incapable of exercising proper and effective parental care or control solely because of a physical disability, including, but not limited to, a defect in the visual or auditory functions of his or her body, unless the court finds that the disability prevents the parent from exercising such care or control.

(b) Who is destitute, or who is not provided with the necessities of life, or who is not provided with a home or suitable place of abode.

(c) Who is physically dangerou to the public because of a mental or physical deficiency, disorder or abnormality.

(d) Whose home is an unfit place for him by reason of neglect, cruelty, depravity, or physical abuse of either of his parents, or of his guardian or other person in whose custody or care he is.

(e) Who has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights and for whom an interlocutory decree has not been granted pursuant to Section 224n of the Civil Code or an adoption petition has not been granted.

SEC. 2.5. Section 300.1 is added to the Welfare and Institutions Code, to read:

300.1. Notwithstanding the provisions of subdivision (e) of Section 361 and Section 16507, family reunification services shall not be provided to a minor adjudged a dependent pursuant to subdivision (e) of Section 300.

SEC. 3. Section 358 of the Welfare and Institutions Code is amended to read:

358. (a) After finding that a minor is a person described in Section 300, the court shall hear evidence on the question of the proper disposition to be made of the minor. The court shall receive in evidence the social study of the minor made by the probation officer and such other relevant and material evidence as may be offered, and in any judgment and order of disposition, shall state the social study made by the probation officer has been read and considered by the court.

(b) If the court finds that a minor is described by subdivision (e) of Section 300, the court shall conduct the dispositional proceeding described under subdivision (a) pursuant to Section 366.25.

SEC. 4. Section 11209 of the Welfare and Institutions Code is amended to read:

11209. The department shall make rules and regulations for the proper maintenance and care of needy children and for the administration of Aid to Families with Dependent Children. Such rules and regulations shall be binding upon the institutions, county welfare departments and any public or private agency that is

responsible for the placement and care of a child receiving AFDC-FC.

The department may inquire at any time into the management of any institution or public or private agency receiving aid on behalf of children under their placement and care in accordance with the provisions of this chapter or into the management by any county of Aid to Families with Dependent Children.

If an institution, public or private agency or a county fails to comply promptly with the provisions of this chapter and the rules and regulations of the department cannot be enforced in any other manner, the institution, public or private agency or county failing or refusing to comply with such provisions, rules, and regulations, or to permit the inquiry provided for in this section, shall not thereafter receive aid under the provisions of this chapter until it has complied with all such provisions, rules, and regulations and has permitted the inquiry by the department, if such inquiry is demanded.

SEC. 5. Section 11210 of the Welfare and Institutions Code is amended to read:

11210. The department shall make such reports, in such form and containing such information, as the United States Department of Health and Human Services from time to time requires, and shall comply with such provisions as that department from time to time finds necessary to assure correctness and verification of such reports. County welfare departments and any public or private agency receiving aid on behalf of children under their placement and care in accordance with the provisions of this chapter shall provide the department with all information and statistics required to compile the reports.

SEC. 6. Section 11214 of the Welfare and Institutions Code is amended to read:

11214. (a) The department, with the advice and assistance of the counties, shall develop performance standards for the AFDC-FC program for submission to the Joint Legislative Budget Committee by January 1, 1981. The Joint Legislative Budget Committee shall review and comment on the performance standards by February 15, 1981. After considering the committee's comment and review, the department shall adopt performance standards by regulation no later than April 15, 1981. The performance standards shall be measurable objectives for the AFDC-FC program.

Any county which does not meet the performance standards shall be liable for up to the total amount of nonfederal expenditures for aid payments pursuant to subdivision (b) of Section 15200 as determined by the director.

(b) No county shall be reimbursed for any percentage increases in the payments to any group home which exceed the percentage cost-of-living increase provided in any fiscal year beginning on or after July 1, 1979, to persons eligible for aid under this chapter and who meet the conditions of this subdivision. This subdivision shall remain in effect until July 1, 1983.

SEC. 7. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families With Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Family home" means the family residence of a licensee in which 24-hour care and supervision are provided for children.

(d) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(e) "Group home" means a privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by subdivision (a) (1) of Section 1502 of the Health and Safety Code.

(f) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(g) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(h) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of such agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 320 or 636, (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being (1) appointed the child's legal guardian, or (2) delegated care, custody and control of the child by the juvenile court on or before June 30, 1982.

(i) "Preplacement preventive services" means services which are

designed to help children remain with their families by preventing or eliminating the need for removal.

(j) "Relative" means a person who can be a "caretaker relative" of a dependent child under the provisions of Section 406 of the Social Security Act.

(k) "Voluntary placement" means an out-of-home placement of a minor by or with the participation of the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement.

(*l*) "Voluntary placement agreement" means a written agreement between the county welfare department and the parents or guardians of a minor which specifies the terms of the voluntary placement.

SEC. 7.1. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Exclusive-use home" means a family residence certified by a licensed homefinding agency and issued a certificate of approval by that agency as meeting licensing standards, and used exclusively by that homefinding agency for placement.

(d) "Family home" means the family residence of a licensee in which 24-hour home care and supervision are provided for children.

(e) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(f) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by subdivision (a) (1) of Section 1502 of the Health and Safety Code.

(g) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative

permanent placement.

(h) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(i) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of such agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 320 or 636, (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being (1) appointed the child's legal guardian, or (2) delegated care, custody and control of the child by the juvenile court on or before June 30, 1982.

(j) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(k) "Relative" means a person who can be a "caretaker relative" of a dependent child under the provisions of Section 406 of the Social Security Act.

(*l*) "Voluntary placement" means an out-of-home placement of a minor by (1) the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(m) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

SEC. 7.2. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Foster Care Support Program" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster

parents receive services in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Family home" means the family residence of a licensee in which 24-hour care and supervision are provided for children.

(d) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(e) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by subdivision (a) (1) of Section 1502 of the Health and Safety Code.

(f) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(g) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(h) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of such agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 320 or 636, (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being (1) appointed the child's legal guardian, or (2) delegated care, custody and control of the child by the juvenile court on or before June 30, 1982.

(i) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(j) "Relative" means a person who can be a "caretaker relative" of a dependent child under the provisions of Section 406 of the Social Security Act.

(k) "Voluntary placement" means an out-of-home placement of a minor by or with the participation of the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement.

(*l*) "Voluntary placement agreement" means a written

agreement between the county welfare department and the parents or guardians of a minor which specifies the terms of the voluntary placement.

SEC. 7.3. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Foster Care Support Program" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Exclusive-use home" means a family residence certified by a licensed homefinding agency and issued a certificate of approval by that agency as meeting licensing standards, and used exclusively by the homefinding agency for placement.

(d) "Family home" means the family residence of a licensee in which 24-hour care and supervision are provided for children.

(e) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(f) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by subdivision (a) (1) of Section 1502 of the Health and Safety Code.

(g) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(h) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(i) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of such agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising

a child detained by the juvenile court pursuant to Section 320 or 636, (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being (1) appointed the child's legal guardian, or (2) delegated care, custody and control of the child by the juvenile court on or before June 30, 1982.

(j) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(k) "Relative" means a person who can be a "caretaker relative" of a dependent child under the provisions of Section 406 of the Social Security Act.

(*l*) "Voluntary placement" means an out-of-home placement of a minor by (1) the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(m) "Voluntary placement agreement" means a written agreement between the county welfare department and the parents or guardians of a minor which specifies the terms of the voluntary placement.

SEC. 7.6. Section 11402.5 is added to the Welfare and Institutions Code, to read:

11402.5. (a) The federal government has provided the state the option of including in its state plan children placed in public child care institutions. Therefore, notwithstanding Section 11402 and subject to Section 15200.5, it is the intent of the Legislature that a child who is otherwise eligible for federal financial participation in the AFDC-FC payment may be eligible for aid under the provisions of this chapter when the child is placed in a public child care institution. Payment under the provisions of this section cannot exceed 30 days, except as provided in subdivision (b). This provision is effective only if and during such federal fiscal year when no restriction, as defined by the department, on federal matching for AFDC-FC payments exists. Pursuant to this section, the county shall request reimbursement at the close of the federal fiscal year. As used in this section, "public child care institution" means a nondetention facility which has been licensed in accordance with the Community Care Facilities Act, Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, and which has a licensed capacity not exceeding 25 children.

(b) When a child is hard to place, as defined in departmental regulations, and when the child is not placed in an emergency shelter, payment may be made under this section for a period not

exceeding 90 days.

SEC. 8. Section 11404 of the Welfare and Institutions Code, as amended by Section 5 of Chapter 325 of the Statutes of 1982, is amended to read:

11404. (a) Except as provided in Section 11405, a child is not eligible for AFDC-FC unless responsibility for placement and care of the child is with the county welfare department, the county probation department which has an agreement with the county welfare department, or a licensed public adoption agency, licensed private adoption agency or the department.

(b) In order for the child to be eligible for AFDC-FC, the agency with responsibility for the child's placement and care must in accordance with departmental regulations:

(1) For children removed after October 1, 1983, document that it provided preplacement preventive services to the child prior to the child's placement in foster care, and document why provisions of these services were not successful in maintaining the child in his or her home, unless it is documented that these services were not provided due to:

(A) Either the voluntary relinquishment of the child by one or both parents or court action declaring a child free from the custody and control of one or both parents.

(B) The child's residence with a nonrelated legal guardian.

(2) Develop a written assessment of the reasons necessitating the child's placement in foster care and the treatment needs of the child while in foster care to be updated by the agency no less frequently than once every six months; and

(3) Develop a case plan for the child within 30 days of placement.

(4) Ensure that services are provided to return the child to his or her own home or establish an alternative permanent placement for the child if return home is not possible or is inappropriate.

(c) Notwithstanding subdivision (a), AFDC-FC payments shall also be made on behalf of a child for whom the responsibility for care, custody, and control has been designated to an individual pursuant to subdivision (1) (a) of Section 362, or subdivision (a) of Section 362.5, or subdivision (1) (a) of Section 727, or Section 730 (as it refers to subdivision (1) (a) of Section 727), or Section 731 (as it refers to subdivision (1) (a) of Section 727), provided that the county welfare or county probation department is providing to the child the services specified in subdivision (b) of this section. Such payments shall not be continued after June 30, 1982.

SEC. 8.5. Section 11404 of the Welfare and Institutions Code, as added by Section 6 of Chapter 325 of the Statutes of 1982, is repealed.

SEC. 9. Section 11404.1 is added to the Welfare and Institutions Code, to read:

11404.1. In order to be eligible for AFDC-FC, the child must receive a periodic review no less frequently than once every six months and a permanency planning hearing within 18 months of placement in foster care and periodically thereafter, as required

throughout the period of foster care placement. Periodic reviews and permanency planning hearings shall not be required for a child who is residing with a nonrelated legal guardian.

SEC. 9.2. Section 11404.2 of the Welfare and Institutions Code is amended to read:

11404.2. In the case of a child who has been found by a qualified mental health professional to be severely emotionally disturbed and is in placement pursuant to subdivision (c) of Section 11401.1, the county welfare department shall be responsible for developing and shall encourage the county mental health department or a qualified mental health professional to assist in developing the written assessment and the service plan, as well as all updates to the written assessment or the service plan, which are required pursuant to subdivision (b) of Section 11404. If the county mental health department or the qualified mental health professional continues to recommend out-of-home placement for the child, then the county mental health department or a qualified mental health professional shall cooperate with the responsible agency in development of the written assessment and the service plan, as well as all updates to the written assessment and the service plan, and in arranging for the treatment services identified in the service plan.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed, unless a later enacted statute deletes or extends that date.

SEC. 10. Section 11409 is added to the Welfare and Institutions Code, to read:

11409. To the extent required by federal law, the department shall establish specific numeric goals for the number of children receiving AFDC-FC payments who have been in foster care two years or longer.

SEC. 11. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) For each needy family which includes one or more needy children, not to include unborn children, qualified for aid under this chapter, there shall be paid, notwithstanding minimum basic standards of adequate care established by the department under Section 11452, an amount of aid each month which when added to his income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1, is equal to the sums specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453:

Number of eligible needy persons in the same home	Maximum aid
1	$ 248
2	408
3	506

4	601
5	686
6	771
7	846
8	922
9	996
10 or more	1,071

If, when and during such times as the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to such increase or decrease by the United States government, provided that no such increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(b) When the family does not include a needy child qualified for aid under this chapter, aid shall be paid to a pregnant mother in the amount which would otherwise be paid to one person as specified in subdivision (a) from the date of verification of pregnancy if the mother, and child if born, would have qualified for aid under this chapter.

(c) The amount of seventy dollars ($70) per month shall be paid to pregnant mothers qualified for aid under subdivisions (a) or (b) to meet special needs resulting from pregnancy if the mother, and child, if born, would have qualified for aid under this chapter. County welfare departments shall refer all recipients of aid under this subdivision to a local provider of the Women, Infants and Children program. If such payment to pregnant mothers qualified for aid under subdivision (a) is considered income under federal law in the first five months of pregnancy, payments under this subdivision shall not apply to persons eligible under subdivision (a), except for the month in which birth is anticipated and for the three-month period immediately prior to the month in which delivery is anticipated, if the mother, and the child if born, would have qualified for aid under this chapter.

(d) For children receiving AFDC-FC under the provisions of this chapter, there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month which when added to the child's income is equal to the rate specified in Section 11461, 11462, 11462.5, or 11463. In addition, the child shall be eligible for special needs, as specified in departmental regulations.

(e) (1) In addition to the amounts payable under subdivision (a) and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. Such recurring special needs shall include but not be limited to special diets upon the recommendation of a physician for circumstances other than pregnancy, and unusual costs of transportation, laundry, housekeeping service, telephone, and

utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars ($10) by the number of recipients in the family who are eligible for assistance.

(2) A family shall also be entitled to receive an allowance for nonrecurring special needs caused by sudden and unusual circumstances beyond the control of the needy family; provided, however, that such needs shall not be taken into consideration in determining the eligibility of the family for aid.

(3) The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this subdivision.

(f) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a) of this section.

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

SEC. 12. Section 11460 is added to the Welfare and Institutions Code, to read:

11460. (a) It is the intent of the Legislature that foster care providers shall be paid a rate determined in accordance with Section 11461, 11462 or 11463 in return for the care and supervision of the AFDC-FC child placed with them.

(b) The department is designated the single organizational unit whose duty it shall be to administer a state system for establishing rates in the AFDC-FC program. State functions shall be performed by the department or by delegation of the department to county welfare departments.

SEC. 13. Section 11461 is added to the Welfare and Institutions Code, to read:

11461. (a) For children placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, the rates in the following table shall be in effect, beginning July 1, 1982, subject to the availability of funds:

Age	Basic rate
0-4	$ 269
5-8	292
9-11	312
12-14	346
15-20	377

In the event sufficient funds are not available to implement these rates, the department shall determine the amounts by which county basic rates below these levels shall be raised.

(b) Effective July 1, 1983, the amounts in the above table shall be adjusted annually for cost-of-living increases or decreases in accordance with the procedures in Section 11453, subject to the

availability of funds.

(c) (1) Any county that, as of June 30, 1982, has in effect a basic rate that is at or below the levels set forth in subdivision (a) shall receive state participation in the new level.

(2) Any county that, as of June 30, 1982, has in effect a basic rate that exceeds the new levels in subdivision (a) shall receive increases in state participation of up to 70 percent of the cost-of-living increases provided in accordance with Section 11453, during the first year that such cost-of-living increases are provided. In each subsequent year, such counties shall receive increases in state participation of up to one-half of the cost-of-living increases provided in accordance with Section 11453 until cost-of-living adjustments to the new schedule eliminate the difference between the new basic rates and the state participation level.

(d) As used in this section, "specialized care rate" means an amount paid on behalf of a foster child requiring specialized care to a home listed in subdivision (a) in addition to the basic rate. The department, with the advice and assistance of the counties, shall develop and implement a ratesetting system for specialized care rates by July 1, 1984. No county shall be reimbursed for any percentage increases in specialized care payments which exceed the percentage cost-of-living increase provided in any fiscal year beginning with the 1982–83 fiscal year to persons eligible for aid under subdivision (a) of Section 11450. Existing criteria for establishing these specialized care rates shall be frozen until a new rate system for specialized care is implemented. During the interim period between July 1, 1982, and implementation, the following procedures shall apply:

(1) A child receiving foster care at the basic rate as of July 1, 1982, shall not receive care at the specialized care rate unless he or she is reclassified as needing specialized care in a home other than the one in which he or she is residing. A child shall be reclassified as needing specialized care without a change in placement only when movement would cause the child physical or emotional harm and the agency documents that the child's foster parent has the skills necessary to meet the increased needs of the child.

(2) A child receiving care at a specialized care rate as of July 1, 1982, shall continue to receive care at this rate unless the needs of the child are determined to justify the reduction or elimination of the specialized care rate or to justify additional specialized care in a home other than the one in which the child is residing. A child shall be reclassified as needing additional specialized care without a change in placement only when movement would cause the child physical or emotional harm and the child's foster parent has the skills necessary to meet the increased needs of the child.

(3) A child entering the foster care system after July 1, 1982, who requires specialized care, shall receive a rate based on the county's specialized care system.

(e) This section shall remain in effect only until December 31,

1983, and as of that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 15. Section 11462 is added to the Welfare and Institutions Code, to read:

11462. (a) For children receiving AFDC-FC under the provisions of this chapter who are placed in group homes, or public child care institutions, as defined in Section 11402.5, there shall be a rate established based on actual allowable costs.

(b) (1) As used in this section, "allowable costs" means: (A) the reasonable cost of, and the cost of providing food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation; (B) reasonable cost of administration and operation necessary to provide the items described in paragraph (A); and (C) reasonable activities performed by social workers employed by group home providers which are not otherwise allowable as daily supervision or as the costs of administration.

(2) The director, with the advice and assistance of the counties, shall have the authority to define reasonableness as he determines it to be necessary and appropriate, for paragraph (1) of this subdivision.

(3) Provided the necessary statistics are available or can be reasonably obtained, the Department of Finance shall report to the Legislature on the cost of savings of subsection (b) (1) by July 1, 1983.

(4) The services specified in subparagraph (C) of paragraph (1) of subdivision (b) will be funded to the extent any general or federal welfare fund savings result from any federal changes in the 1983 federal Budget Act, or if these savings do not materialize, from other federal funds not otherwise appropriated by the Legislature.

(c) During the 1983–84 fiscal year, the department, with the advice and assistance of the counties and the Department of Finance, shall develop and implement a plan whereby AFDC-FC payment rates shall be effectively controlled. Implementation of the rate control method shall be effective not sooner than 30 days after submission of the plan to the Chairman of the Joint Legislative Budget Committee.

(d) The 1983–84 fiscal year payments to group homes shall not exceed the 1982–83 fiscal year payments adjusted for cost of living in accordance with procedures in Section 11453, subject to the availability of funds. This limitation shall not apply to group homes which received noncost-based, scheduled rates during the 1982–83 fiscal year.

(e) The department shall perform an audit at least once every three years beginning October 1, 1982, on all group homes who received funds on behalf of children receiving assistance under the AFDC-FC program.

SEC. 15.3. Section 11462.5 is added to the Welfare and Institutions Code, to read:

11462.5. Notwithstanding the provisions of subdivision (b) of

Section 11214, a group care facility funded under the AFDC-FC program shall be eligible for establishment of a new rate of payment for services, upon approval by the county welfare department, if the facility can document that a new rate is needed for a new program which:

(a) Serves an entirely different population at an entirely different level of service than that currently served by the provider's existing program.

(b) Either is located in a different facility from current programs operated by the provider or current programs operated by the provider are discontinued in favor of a new program.

(c) Is clearly and exclusively serving a county need, developed in consultation with county officials.

In accordance with standards which shall be developed by the department, the county in which the new facility is located shall substantiate that these criteria have been met and certify that General Fund costs shall not increase as a result of the new rate of payment. The department shall have authority to audit the county certification for final reimbursement. The new rate, if approved, shall only apply to a provider's new program and not to previously existing programs operated by that provider.

This section shall be effective for payments made on or after the effective date of the section.

This section shall remain in effect only until July 1, 1983, and as of such date is repealed, unless a later enacted statute deletes or extends that date.

SEC. 15.5. Section 11463 is added to the Welfare and Institutions Code, to read:

11463. The department, with the advice, assistance and cooperation of the counties and foster care providers, shall develop and implement a ratesetting system for homefinding agencies to be effective no later than July 1, 1984.

No county shall be reimbursed for any percentage increases in payments, made on behalf of AFDC-FC funded children who are placed with homefinding agencies, which exceed the percentage cost-of-living increase provided in any fiscal year beginning on or after July 1, 1982, to persons eligible for aid under subdivision (a) of Section 11450.

SEC. 16. Section 15200 of the Welfare and Institutions Code, as amended by Chapter 282 of the Statutes of 1979, is amended to read:

15200. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting available federal funds, the following sums:

(a) To each county for the support and maintenance of needy children, 89.2 percent of the sums specified in subdivision (a), and paragraphs (1) and (2) of subdivision (e) of Section 11450.

(b) To each county for the support and maintenance of pregnant mothers, 89.2 percent of the sums specified in subdivisions (b) and (c) of Section 11450.

(c) To each county for the support and maintenance of needy children, 95 percent of the sum necessary for the adequate care of each child pursuant to subdivision (d) of Section 11450 for the period July 1, 1979, to December 31, 1983.

(d) To each county for the support and care of hard-to-place adoptive children, 100 percent of the nonfederal share of the amount specified in Section 16121.

(e) This section shall remain in effect only until December 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1983, deletes or extends such date.

SEC. 17. Section 15200 of the Welfare and Institutions Code, as amended by Chapter 1166 of the Statutes of 1980, is amended to read:

15200. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting federal funds available, the following sums:

(a) To each county for the support and maintenance of needy children, 89.2 percent of the sums specified in subdivision (a), and paragraphs (1) and (2) of subdivision (e), of Section 11450.

(b) To each county for the support and maintenance of pregnant mothers, 89.2 percent of the sum specified in subdivisions (b) and (c) of Section 11450.

(c) To each county for the adequate care of each child pursuant to subdivision (d) of Section 11450 the following amounts:

(1) The sum necessary for the adequate care of each child but not to exceed in any month the product of one hundred twenty dollars ($120) multiplied by the number of children in each county receiving foster care. The state shall pay 67.5 percent and the county shall pay 32.5 percent of the aid furnished for the adequate care of such children.

(2) The state shall reimburse counties for the nonfederal costs of providing an additional twelve dollars and fifty cents ($12.50) a month per eligible child to foster parents. In addition the state may, at its discretion, pay on a pro rata basis from funds specifically appropriated in the Budget Act additional aid for the adequate care of foster children receiving aid under subdivision (d) of Section 11450.

The financial benefit accruing from the additional funds available under this paragraph shall be passed on to foster parents in order to more adequately reimburse foster parents for their expense, and to enable counties to more readily recruit and retain a selection of homes suited to the diversified needs of the individual child, and the counties shall not substitute the additional state funds received under this paragraph for county funds being expended for foster care at the time when this section takes effect.

(d) To each county for the support and care of hard-to-place adoptive children, 100 percent of the nonfederal share of the amount specified in Section 16121.

(e) This section shall become operative on January 1, 1984.

SEC. 17.5. Section 15200.5 is added to the Welfare and Institutions Code, to read:

15200.5. Notwithstanding the provisions of subdivision (c) of Section 15200, the county shall be responsible for 100 percent of the nonfederal share of payments to needy children eligible for AFDC-FC under the conditions of Section 11402.5.

SEC. 18. Section 16115 of the Welfare and Institutions Code is amended to read:

16115. Aid under this chapter shall be known as the Adoption Assistance Program.

SEC. 19. Section 16115.5 of the Welfare and Institutions Code is amended to read:

16115.5. It is the intent of the Legislature in enacting this chapter to benefit hard-to-place children residing in foster homes by providing the stability and security of permanent homes, and in so doing, achieve a reduction in foster home care. It is not the intent of this chapter to increase expenditures but to provide for payments to adoptive parents to enable them to meet the needs of hard-to-place children.

SEC. 20. Section 16116 of the Welfare and Institutions Code is amended to read:

16116. For purposes of this chapter, a "hard-to-place" child means a child whose adoption without financial assistance would be unlikely because of adverse parental background, ethnic background, race, color, language, membership in a sibling group which should remain intact, mental, physical, medical or emotional handicaps or age of three years or more. The provisions of this chapter apply only to hard-to-place children.

SEC. 21. Section 16117 of the Welfare and Institutions Code is repealed.

SEC. 22. Section 16118 of the Welfare and Institutions Code is amended to read:

16118. (a) The department shall establish and administer the program to be carried out by the department or any licensed adoption agency pursuant to this chapter. The department shall adopt such regulations as are necessary to carry out the provisions of this chapter.

(b) The department shall keep such records as are necessary to evaluate the programs' effectiveness in encouraging and promoting the adoption of hard-to-place children.

(c) The department or licensed adoption agency which has custody of the child, shall have responsibility for certifying that the child meets hard-to-place criteria and for determining the amount of financial assistance needed by the child and the adopting family.

(d) The county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Section 16120 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under

the Aid to Families with Dependent Children program if the child were not adopted. The county of responsibility for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family.

(e) The department shall actively seek and make maximum use of federal funds which may be available for the purposes of this chapter. All gifts or grants received from private sources for the purpose of this chapter shall be used to offset public costs incurred under the program established by this chapter.

SEC. 23. Section 16120 of the Welfare and Institutions Code is repealed.

SEC. 24. Section 16120 is added to the Welfare and Institutions Code, to read:

16120. Adoption Assistance Program benefits shall be paid only on behalf of hard-to-place children for whom the following conditions are met:

(a) The department or licensed adoption agency and the prospective adoptive parent have signed an adoption assistance agreement which stipulates the need for and the amount of Adoption Assistance Program benefits. The adoption assistance agreement shall, at a minimum, specify the duration of assistance, the responsibility of the adopting family for reporting changes in circumstances, and the periodic recertification required for reevaluating the continuing needs of the family.

(b) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.

(c) The adoptive family is responsibile for the child pursuant to the terms of an adoption assistance agreement and an interlocutory decree or a final decree of adoption.

(d) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(e) The child has been either relinquished for adoption to a California agency or freed for adoption through termination of parental rights by a California court, or committed to the department pursuant to subdivision (c) of Section 226 of the Civil Code.

SEC. 25. Section 16120.1 of the Welfare and Institutions Code is repealed.

SEC. 26. Section 16120.5 of the Welfare and Institutions Code is repealed.

SEC. 27. Section 16121 of the Welfare and Institutions Code is repealed.

SEC. 28. Section 16121 is added to the Welfare and Institutions Code, to read:

16121. (a) In accordance with the adoption assistance agreement, the adoptive family shall be paid an amount of aid based on the child's needs and the circumstances of the adopting parents but which shall not exceed the amount that would be paid for foster

care for the child if the placement for adoption had not taken place. Any substantial change in the family's financial circumstances or need shall be reported by the parents to the adoption agency.

(b) Payment shall begin on or after the effective date of an interlocutory decree of adoption or final adoption.

(c) Children on whose behalf an aid for adoption of children agreement had been executed prior to October 1, 1982, shall continue to receive aid for adoption of children benefits in accordance with the terms of that agreement.

This aid for adoption of children agreement may be renewed, provided total benefits do not exceed five years. Prior to the end of the five-year period, if there is a continuing need, related to a chronic health condition of the child which necessitated the initial financial assistance, a parent may petition the department or the designated licensed adoption agency to continue financial assistance. The amount of financial assistance and the time period for which it may be given, shall be determined by the department or the agency but shall not exceed the age of majority of the child. Prior to the expiration of the extension period, if there is a continuing need, a parent may petition the department or the designated licensed adoption agency for a new period of termination. The department or the agency shall make its determination regarding the financial ability of the parents to meet the continuing medical needs of the child, related to the child's health condition at the time of adoption, taking into consideration community resources.

SEC. 28.5. Section 16121.1 is added to the Welfare and Institutions Code, to read:

16121.1. Notwithstanding the provisions of Section 11105, the residence of the adoptive parents at the time of or subsequent to adoptive placement shall not terminate the eligibility of a child who is otherwise eligible for adoptive assistance payments.

SEC. 29. Section 16122 of the Welfare and Institutions Code is repealed.

SEC. 30. Section 16122 is added to the Welfare and Institutions Code, to read:

16122. From any funds appropriated therefor, the state shall reimburse private adoption agencies licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code for costs of aid to adoption programs for hard-to-place children, less the amount of fees received by such agencies from adoptive parents. Such agencies shall be reimbursed for the placement of hard-to-place children in an amount not to exceed two thousand dollars ($2,000) per placement.

SEC. 31. Section 16123 is added to the Welfare and Institutions Code, to read:

16123. The provisions of Section 16120, permitting the payment of adoption assistance until a child attains the age of 18 or 21 if the child has mental or physical handicaps, shall be effective as long as federal funds are available under Title IV-E of the federal Social

Security Act. When such funds cease to be available the maximum length for payment of the Adoption Assistance Program shall be five years except in instances in which there is a continuing need, related to a chronic health condition of the child which necessitated the initial financial assistance. In such cases, a parent may petition the department or licensed adoption agency to continue financial assistance up to age of majority.

SEC. 32. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, regulations adopted by the State Department of Social Services within 120 days of the enactment of this act in order to implement the provisions of this act shall not be subject to review and approval of the Office of Administrative Law. 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.

SEC. 33. (a) The sum of two hundred sixty-seven thousand five hundred dollars ($267,500) is hereby appropriated from the General Fund to the State Department of Social Services as follows:

(1) The sum of twelve thousand dollars ($12,000) in augmentation of Item 5180-141-001 of the Budget Act of 1982, for county welfare department administration.

(2) The sum of sixty-seven thousand five hundred dollars ($67,500) in augmentation of Item 5180-001-001 (b) of the Budget Act of 1982, for increased Attorney General costs incurred by the State Department of Social Services.

(3) The sum of one hundred eighty-eight thousand dollars ($188,000) in augmentation of Item 5180-151-001 (d) of the Budget Act of 1982, for increased adoptions costs.

(b) The sum of one hundred twenty-nine thousand dollars ($129,000) is hereby appropriated from the Federal Trust Fund to the State Department of Social Services as follows:

(1) The sum of four thousand dollars ($4,000) in augmentation of Item 5180-141-866 of the Budget Act of 1982, for county welfare department administration.

(2) The sum of one hundred twenty-five thousand dollars ($125,000) to Item 5180-101-866(c) Adoption Assistance Program, of the Budget Act of 1982.

(c) The sum of one hundred twenty-five thousand dollars ($125,000) of the amount appropriated by Item 5180-101-001 (c) of the Budget Act of 1982 shall revert to the unappropriated surplus of the General Fund.

(d) This section shall apply to payments made on or after the effective date of this act.

(e) This section shall only remain in effect until July 1, 1983, and as of that date is repealed.

SEC. 33.5. Upon request of the Department of Social Services, the Director of Finance may transfer funds from Item 5180-141-001 to Item 5180-001-001 and from Item 5180-141-866 to Item 5180-001-866

of Section 2.00 of the Budget Act of 1982, in such amounts as are necessary for the development and continuing operation of a group home ratesetting system by the State Department of Social Services.

SEC. 34. 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. 35. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning Article IV of the Constitution and shall go into effect immediately. The facts constituting the necessity are:

In order to implement Title IV-E of the federal Social Security Act on or before October 1, 1982, as mandated by Public Law 96-272, it is necessary for this act to go into immediate effect.

SEC. 36. Except for Section 13 of this act, which shall take effect immediately, the provisions of this act shall become operative on October 1, 1982. The State Department of Social Services may establish positions prior to October 1, 1982, in order to implement a uniform standardized ratesetting system by October 1, 1982.

SEC. 37. It is the intent of the Legislature that if this bill and Assembly Bill 3040 or Assembly Bill 3424, or both, are chaptered and become effective on or before January 1, 1983, each of the bills amend Section 11400 of the Welfare and Institutions Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill 3040 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 11400 of the Welfare and Institutions Code, but Assembly Bill 3424 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 3040, the amendments proposed by Section 7 of this act, shall remain operative until the effective date of Assembly Bill 3040, and that on the effective date of Assembly Bill 3040 Section 11400 of the Welfare and Institutions Code, as amended by Section 7 of this act, be further amended in the form set forth in Section 7.1 of this act to incorporate the changes in Section 11400 proposed by Assembly Bill 3040. Therefore, if this bill and Assembly Bill 3040 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill 3040 is chaptered before this bill and amends Section 11400, and Assembly Bill 3424 is not chaptered or as chaptered does not amend that section, Section 7.1 of this act shall become operative on the effective date of Assembly Bill 3040 and Sections 7.2 and 7.3 shall not become operative.

(2) If this bill and Assembly Bill 3424 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 11400 of the Welfare and Institutions Code, but Assembly Bill 3040 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 3424, the amendments proposed by Section 7 of this act shall remain operative until the effective date of Assembly Bill 3424, and that on the effective date

of Assembly Bill 3424 Section 11400 of the Welfare and Institutions Code, as amended by Section 7 of this act, be further amended in the form set forth in Section 7.2 of this act to incorporate the changes in Section 11400 proposed by Assembly Bill 3424. Therefore, if this bill and Assembly Bill 3424 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill 3424 is chaptered before this bill and amends Section 11400, and Assembly Bill 3040 is not chaptered or as chaptered does not amend that section, Section 7.2 of this act shall become operative on the effective date of Assembly Bill 3424 and Sections 7.1 and 7.3 of this act shall not become operative.

(3) If this bill and Assembly Bill 3040 and Assembly Bill 3424 are all chaptered and become effective on or before January 1, 1983, all three bills amend Section 11400 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 3040 and Assembly Bill 3424, the amendments proposed by Section 7 of this act shall remain operative until the effective date of Assembly Bills 3040 and 3424, and that on the effective date of Assembly Bills 3040 and 3424, Section 11400 of the Welfare and Institutions Code, as amended by Section 7 of this act, be further amended in the form set forth in Section 7.3 of this act to incorporate the changes in Section 11400 proposed by Assembly Bills 3040 and 3424. Therefore, if this bill and Assembly Bills 3040 and 3424 are all chaptered and become effective on or before January 1, 1983, and Assembly Bills 3040 and 3424 are chaptered before this bill and amend Section 11400, Section 7.3 of this act shall become operative on the effective date of Assembly Bills 3040 and 3424 and Section 7.1 and 7.2 shall not become operative.

CHAPTER 978

An act to amend Sections 232 and 232.9 of the Civil Code, and to amend Sections 307, 308, 309, 311, 319, 321, 328, 330, 341, 346, 352, 356, 360, 361, 362, 364, 365, 727, 12054, 12251, 12301.1, 12304, 16500, 16501, 16502, and 16504 of, to amend the heading of Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 of, to amend and renumber Sections 16505, 16506, 16507, 16508, 16509, and 16510 of, to add Sections 202.5, 206, 304.5, 366, 366.2, 366.25, 16501.1, 16501.2, 16501.3, 16503, 16504, 16504.1, 16506, 16506.1, 16507, 16507.1, 16507.2, 16507.3, 16507.4, 16507.5, 16507.6, 16508, 16508.1, 16509.1, and 16509.2 to, to add Chapter 5 (commencing with Section 10200) to Part 1.5 of Division 9 of, and to repeal Sections 206, 320, 355.8, 366, 16501.1, 16504, 16505, 16506, 16506.1, 16511, 16511.5, and 16512 of, and Chapter 4 (commencing with Section 18250) of Part 6 of Division 9 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 September 12, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any child under the age of 18 years declared free from the custody and control of either or both of his parents when the child comes within any of the following descriptions:

(1) The child has been left without provision for the child's identification by his parent or parents or by others or has been left by both of his parents or his sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the child. The failure to provide identification, failure to provide, or failure to communicate shall be presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by the parent or parents. In those cases in which the child has been left without provision for the child's identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

The fact that a child is in a foster care home, licensed under Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, shall not prevent a licensed adoption agency which is planning adoption placement for the child, from instituting, under this subdivision, an action to declare the child free from the custody and control of the child's parents. When the requesting agency is a licensed county adoption agency, the county counsel, and if there is no county counsel, the district attorney shall institute such action.

(2) Who has been cruelly treated or neglected by either or both of the child's parents, if the person has been a dependent child of the juvenile court, and the parent or parents have been deprived of the child's custody for the period of one year prior to the filing of a petition praying that the child be declared free from the custody and control of such cruel or neglectful parent or parents.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when these controlled substances are used as part of a medically prescribed plan, or are morally depraved, if the person has been a dependent child

of the juvenile court, and the parent or parents have been deprived of the child's custody because of this disability, or moral depravity, for the period of one year continuously immediately prior to the filing of the petition praying that the child be declared free from the custody and control of the parent or parents. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which the parent or parents were convicted are of a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction wherever situated to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director of Mental Health or the Director of Developmental Services, or their equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are, and will remain incapable of supporting or controlling the child in a proper manner because of mental deficiency or mental illness, if there is testimony to this effect from two physicians and surgeons each of whom must have been certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code or licensed psychologists who have a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. If, however, the parent or parents reside in another state or in a foreign country, the testimony herein may be supplied by two physicians and surgeons who are residents of such state or foreign country, if such physicians and surgeons have been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine and if the court determines that the certification requirements of such organization or society are comparable to those of the American Board of Psychiatry and Neurology, or by two licensed psychologists who have a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who are licensed in that state or who have statutory recognition for practice in that country.

The parent or parents shall be cited to be present at the hearing, and if the parent or parents have no attorney, the court shall appoint an attorney or attorneys to represent the parent or parents and fix the compensation to be paid by the county for such services, if the court determines the parent or parents are not financially able to

employ counsel.

(7) Who has been cared for in one or more foster homes, residential facilities licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, under the supervision of the juvenile court, the county welfare department or other public or private licensed child-placing agency for 12 months, provided the court finds by clear and convincing evidence that return of the child to the child's parent or parents would be detrimental to the child and that the parent or parents have failed during such period, and are likely to fail in the future, to do all of the following:

(i) Provide a home for the child.

(ii) Provide care and control for the child.

(iii) Maintain an adequate parental relationship with the child.

The court shall make a determination that reasonable services have been provided or offered to the parents or guardians which were designed to aid the parents or guardians to overcome the problems which led to the deprivation or continued loss of custody and that despite the availability of these services, return of the child to the parents or guardians would be detrimental to the child. Probation officers or social workers who provided these services shall appear at the termination proceedings.

Physical custody of the child by the parent or parents for insubstantial periods of time during the required 12-month period will not serve to interrupt the running of such period.

This subdivision shall not apply to a parent or parents who have been convicted of a felony and thereby are unable to receive reasonable services designed to aid them to overcome the problems which originally led to the deprivation of physical custody.

(b) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

SEC. 2. Section 232.9 of the Civil Code is amended to read:

232.9. The State Department of Social Services, a county welfare department, a licensed private or public adoption agency, a county adoption department, or a county probation department which is planning adoptive placement of a child with a licensed adoption agency, or the State Department of Social Services acting as an adoption agency in counties which are not served by a county adoption agency, may initiate an action under Section 232 to declare a child free from the custody and control of his parents. The fact that a child is in a foster care home subject to the requirements of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code shall not prevent the institution of such an action by any such agency or by a licensed adoption agency pursuant to Section 232.

The county counsel or, if there is no county counsel, the district attorney of the county specified in Section 233 shall, in a proper case,

institute the action upon the request of any of the state or county agencies mentioned herein. The action shall be instituted pursuant to Section 232 within 30 days of the request.

If, at the time of the filing of a verified petition by any department or agency specified in this section, the child is in the custody of the petitioner, the petitioner may continue to have custody of the child pending the hearing on the petition unless the court, in its discretion, makes other orders regarding custody pending the hearing which it finds will best serve and protect the interest and welfare of the child.

SEC. 3. Section 202.5 is added to the Welfare and Institutions Code, to read:

202.5. The duties of the probation officer, as described in this chapter with respect to minors alleged or adjudged to be described by Section 300, whether or not delegated pursuant to Section 272, shall be deemed to be social service as defined by Section 10051, and subject to the administration, supervision and regulations of the State Department of Social Services.

SEC. 3.5. Section 206 of the Welfare and Institutions Code is repealed.

SEC. 3.8. Section 206 is added to the Welfare and Institutions Code, to read:

206. Persons taken into custody and persons alleged to be within the description of Section 300, or persons adjudged to be such and made dependent children of the court pursuant to this chapter solely upon that ground, shall be provided by the board of supervisors with separate facilities segregated from persons either alleged or adjudged to be wards of the court within the description of Section 601 or 602 except as provided in Section 16514 of the Welfare and Institutions Code. Separate segregated facilities may be provided in the juvenile hall or elsewhere.

The facilities required by this section shall, with regard to minors alleged or adjudged to come within subdivision (a), (b), or (d) of Section 300, be nonsecure. The facilities provided to minors alleged or adjudged to come within subdivision (c) of Section 300 shall be secure.

For the purposes of this section, the term "secure facility" means a facility which is designed and operated so as to insure that all entrances to, and exits from, the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences, or physical restraints in order to control behavior of its residents. The term "nonsecure facility" means a facility that is not characterized by the use of physically restricting construction, hardware, and procedures and which provides its residents access to the surrounding community with minimal supervision. A facility shall not be deemed secure due solely to any of the following conditions: (1) the existence within the facility of a small room for the protection of individual residents from themselves or others; (2) the adoption

of regulations establishing reasonable hours for residents to come and go from the facility based upon a sensible and fair balance between allowing residents free access to the community and providing the staff with sufficient authority to maintain order, limit unreasonable actions by residents, and to insure that minors placed in their care do not come and go at all hours of the day and night or absent themselves at will for days at a time; and (3) staff control over ingress and egress no greater than that exercised by a prudent parent. The State Department of Social Services may adopt regulations governing the use of small rooms pursuant to this section.

No record of the detention of such a person shall be made or kept by any law enforcement agency or the Department of Justice as a record of arrest.

SEC. 4. Section 304.5 is added to the Welfare and Institutions Code, to read:

304.5. The fact that a minor is a dependent of the juvenile court pursuant to Section 300 shall not divest a superior court, pursuant to Section 4600 of the Civil Code, from hearing proceedings between two parents regarding the custody of a minor who is within the jurisdiction of the superior court. The records of any juvenile court proceeding involving a minor who is the subject of a proceeding pursuant to Section 4600 of the Civil Code may be introduced in evidence in these proceedings. These records shall be examined in camera by the judge and counsel for both sides and shall remain confidential.

SEC. 5. Section 307 of the Welfare and Institutions Code is amended to read:

307. A peace officer or probation officer who takes a minor into temporary custody under the provisions of Section 305 shall thereafter proceed as follows:

(a) The officer may release the minor.

(b) The officer may prepare in duplicate a written notice for the parent or parents of the minor to appear with the minor before the probation officer of the county in which the minor was taken into custody at a time and place specified in the notice. The 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 and a parent, guardian, or responsible relative of the minor and may require the minor and the parent, guardian, or relative to sign a written promise that he or she shall 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.

(c) The officer 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 take place or the circumstances exist which are alleged to bring the minor within the provisions of Section 300, and deliver the minor into

the custody of the probation officer.

In determining which disposition of the minor shall be made, the officer shall give preference to the alternative which least interferes with the parents' or guardians' custody of the minor if this alternative is compatible with the safety of the minor. The officer shall also consider the needs of the minor for the least restrictive environment and the protective needs of the community.

SEC. 6. Section 308 of the Welfare and Institutions Code is amended to read:

308. (a) When an officer takes a minor before a probation officer pursuant to this article, he shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he is being held, except that, upon order of the juvenile court, the parents shall not be notified of the exact whereabouts of the minor. The court shall issue such order only upon a showing that notifying the parents of the exact whereabouts would endanger the child or that the parents are likely to flee with the child.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after he has been taken into custody, the minor shall be advised and has the right to make at least two telephone calls from the place where he is being held, one call completed to his parent or guardian, a responsible relative, or his employer, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his right to make such telephone calls is guilty of a misdemeanor.

SEC. 7. Section 309 of the Welfare and Institutions Code is amended to read:

309. (a) Upon delivery to the probation officer of a minor who has been taken into temporary custody under the provisions of this article, the probation officer shall immediately investigate the circumstances of the minor and the facts surrounding the minor's being taken into custody and attempt to maintain the minor with the minor's family through the provision of services. The probation officer shall immediately release such minor to the custody of the minor's parent, guardian, or responsible relative unless one or more of the following conditions exist:

(1) The minor is in need of proper and effective parental care or control and has no parents, guardians, or responsible relative; or has no parents, guardians, or responsible relative willing to exercise this care or control; or has no parents, guardians, or responsible relative actually exercising this care or control.

(2) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor.

(3) The minor is physically dangerous to the public because of a

mental or physical deficiency, disorder or abnormality.

(4) The minor or his parent, guardian, or responsible relative is likely to flee the jurisdiction of the court.

(5) The minor has violated an order of the juvenile court.

(b) In any case in which there is reasonable cause for believing that a minor who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved is a person described in subdivision (d) of Section 300, the minor shall be deemed to have been taken into temporary custody and delivered to the probation officer for the purposes of this chapter while the minor is at the office of the physician or surgeon or such medical facility.

SEC. 8. Section 311 of the Welfare and Institutions Code is amended to read:

311. (a) If the probation officer determines that the minor shall be retained in custody, he shall immediately file a petition pursuant to Section 332 with the clerk of the juvenile court who shall set the matter for hearing on the detention hearing calendar. The probation officer shall thereupon notify each parent or each guardian of the minor of the time and place of the hearing if the whereabouts of each parent or guardian can be ascertained by due diligence, and the probation officer shall serve those persons entitled to notice of the hearing under the provisions of Section 335 with a copy of the petition and notify these persons of the time and place of the detention hearing. This notice may be given orally and shall be given in this manner if it appears that the parent does not read.

(b) In the hearing the minor, parents or guardians have a privilege against self-incrimination and have a right to confrontation by, and cross-examination of, any person examined by the court as provided in Section 319.

SEC. 9. Section 319 of the Welfare and Institutions Code is amended to read:

319. At the initial petition hearing the court shall examine such minor, the minor's parents, guardians, or other persons having relevant knowledge and hear the relevant evidence as the minor, the minor's parents or guardians or their counsel desires to present.

The probation officer shall report to the court on the reasons why the minor has been removed from the parent's custody, the need, if any, for continued detention, and on the available services and the referral methods to be used which would facilitate the return of the minor to the custody of the minor's parents or guardians. The court shall order the release of such minor from custody unless it finds any of the following:

(a) There is a substantial danger to the physical health of the minor or the minor is suffering severe emotional damage, and there are no reasonable means by which the minor's physical or emotional health may be protected without removing the minor from the parents' or guardians' physical custody.

(b) The minor has violated an order of the juvenile court or has

escaped from the commitment of the juvenile court.

(c) The minor is a threat to the person or property of another or his or her parent or guardian or responsible relative is likely to flee the jurisdiction of the court.

Whenever a court orders a minor detained, the court shall state the facts on which the decision is based.

When the minor is not released from custody the court may order that such minor be placed in an emergency shelter or other suitable licensed place or a place exempt from licensure designated by the juvenile court for a period not to exceed 15 judicial days.

SEC. 10. Section 320 of the Welfare and Institutions Code is repealed.

SEC. 11. Section 321 of the Welfare and Institutions Code is amended to read:

321. When a hearing is held under the provisions of this article and no parent or guardian of such minor is present and no parent or guardian has had actual notice of the hearing, a parent or guardian of the minor may file an affidavit setting forth such facts with the clerk of the juvenile court and the clerk shall immediately set the matter for rehearing at a time within 24 hours, excluding Sundays and nonjudicial days from the filing of the affidavit. Upon the rehearing, the court shall proceed in the same manner as upon the original hearing.

If the minor, a parent or guardian or the minor's attorney or guardian ad litem, if either one or the other has been appointed by the court, requests evidence of the prima facie case, a rehearing shall be held within three judicial days to consider evidence of the prima facie case. If the prima facie case is not established, the minor shall be released from detention.

When the court ascertains that the rehearing cannot be held within three judicial days because of the unavailability of a witness, a reasonable continuance may be granted for a period not to exceed five judicial days.

SEC. 12. 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 child welfare services should be offered to the family and whether proceedings in the juvenile court shall be commenced. If the probation officer determines that it is appropriate to offer these services to the family, the probation officer shall make a referral to such services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9.

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. 13. Section 330 of the Welfare and Institutions Code is amended to read:

330. In any case in which a probation officer after investigation of an application for petition or other investigation he is authorized to make, determines that a minor is within the jurisdiction of the juvenile court or will probably soon be within such jurisdiction, the probation officer may, in lieu of filing a petition or subsequent to dismissal of a petition already filed, and with consent of the minor's parent or guardian, undertake a program of supervision of the minor, for a period not to exceed six months. Commencing on October 1, 1983, services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. If a program of supervision is undertaken, the probation officer shall attempt to ameliorate the situation which brings the minor within, or creates the probability that the minor will be within, the jurisdiction of Section 300 by providing or arranging to contract for all appropriate child welfare services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. No further in-home child welfare services shall be provided subsequent to these time limits. If the family has refused to cooperate with the services being provided, the probation officer may file a petition with the juvenile court pursuant to Section 332. Nothing in this section shall be construed to prevent the probation officer from filing a petition pursuant to Section 332 when otherwise authorized by law.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of restricted dangerous drugs or addiction to narcotics from a county mental health service or other appropriate community agency.

SEC. 14. Section 341 of the Welfare and Institutions Code is amended to read:

341. Upon request of the probation officer, district attorney, the minor or the minor's parent, guardian, or custodian, or upon its own motion, the court or the clerk of the court, or an attorney, pursuant to Section 1985 of the Code of Civil Procedure shall issue subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under the provisions of this chapter. When a person attends a juvenile court hearing as a witness upon a subpoena at its discretion, the court may by an order on its minutes, direct the county auditor to draw his warrant upon the county treasurer in favor of such witness for witness fees in the amount and manner prescribed by Section 68093 of the Government Code. Such fees are county charges.

SEC. 15. Section 346 of the Welfare and Institutions Code is amended to read:

346. Unless requested by a parent or guardian and consented to or requested by the minor concerning whom the petition has been filed, the public shall not be admitted to a juvenile court hearing. The judge or referee may nevertheless admit such persons as he deems to have a direct and legitimate interest in the particular case or the work of the court.

SEC. 16. Section 352 of the Welfare and Institutions Code is amended to read:

352. (a) Upon request of counsel for the parent, minor, or petitioner, the court may continue any hearing under this chapter beyond the time limit within which the hearing is otherwise required to be held, provided that no continuation shall be granted if contrary to the interest of the minor. In considering the minor's interests, the court shall give substantial weight to a minor's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements.

(b) In any case in which the minor is represented by counsel and no objection is made to an order continuing any such hearing beyond the time limit within which the hearing is otherwise required to be held, the absence of such an objection shall be deemed a consent to the continuance.

SEC. 17. Section 355.8 of the Welfare and Institutions Code is repealed.

SEC. 18. Section 356 of the Welfare and Institutions Code is amended to read:

356. After hearing such evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 300. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly and shall then proceed to hear evidence on the question of the proper disposition of the minor. Prior to making a finding required under this section, the court may continue the hearing, if necessary, to receive the social study of the probation officer, or to receive other evidence on its own motion, the motion of a parent or guardian, or minor as follows:

(a) If the minor is detained during the continuance, the continuance shall not exceed 10 judicial days.

(b) If the minor is not detained during the continuance, the continuance shall not exceed 30 days after the date of filing the petition. However, the court may, for cause, continue the hearing for an additional 15 days.

(c) The court may make such order for detention of the minor or for the minor's release from detention, during the period of the continuance, as is appropriate.

SEC. 19. Section 360 of the Welfare and Institutions Code is amended to read:

360. After receiving and considering the evidence on the proper disposition of the case, the juvenile court may enter judgment as follows:

(a) If the court finds that the minor is a person described by Section 300, it may, without adjudicating the minor a dependent child of the court, order that services be provided to keep the family together and place the minor and the minor's parent or guardian under the supervision of the probation officer for a time period consistent with Section 330.

(b) If the court finds that the minor is a person described by Section 300, it may order and adjudge the minor to be a dependent child of the court.

SEC. 20. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases wherein a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over such dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his parent or guardian or the minor does not wish to return to his parent or guardian.

The court shall state the facts on which the decision to remove the

child is based. The court also shall inform the parent or parents of the provisions of Section 366.25 and Section 232 of the Civil Code and shall specify that their parental rights may be terminated permanently under these sections if they are not able to resume custody within 12 months.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to such placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) The juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period.

SEC. 21. Section 362 of the Welfare and Institutions Code is amended to read:

362. (a) When a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section

300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such minor, including medical treatment, subject to further order of the court and consistent with subdivision (e) of Section 361.

When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of such minor to be under the supervision of the probation officer who may place the minor in any of the following:

(1) The home of a relative.

(2) A suitable licensed community care facility.

(3) With a home-finding agency to be placed in a suitable licensed home or exclusive use home which has been certified by the agency as meeting licensing standards.

(b) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided all the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

(c) When a minor is adjudged a dependent child of the court, on the ground that the minor is a person described by Section 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parents or guardians may be required, and may be ordered, to participate in child welfare services or services provided by an appropriate agency designated by the court. When a minor is adjudged a dependent child of the court on the ground that the minor is a person described by subdivision (d) of Section 300 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency, designated by the court.

(d) The juvenile court may direct any and all reasonable orders to the parents or guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (b).

SEC. 22. Section 364 of the Welfare and Institutions Code is

amended to read:

364. (a) Every hearing in which an order is made placing a minor under the supervision of the juvenile court pursuant to Section 300 and in which the minor is not removed from the physical custody of his or her parent or guardian shall be continued to a specific future date not to exceed six months after the date of the original dispositional hearing. The continued hearing shall be placed on the appearance calendar. The court shall advise all persons present of the date of the future hearings, of their rights to be present, and to be represented by counsel.

(b) At least 16 days prior to the hearing, the probation officer shall file a supplemental report with the court describing the services offered to the family and the progress made by the family in eliminating the conditions or factors requiring court supervision. The probation officer shall also make a recommendation regarding the necessity of continued supervision. A copy of this report shall be furnished to all parties at least 14 days prior to the hearing.

(c) After hearing any evidence presented by the probation officer, the parent or the minor, the court shall determine whether continued supervision is necessary. The court shall terminate its jurisdiction unless the probation department establishes by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under Section 300.

(d) If the court retains jurisdiction it shall continue the matter to a specified date, not more than six months from the time of the hearing, at which point the court shall again determine whether conditions exist which would justify initial assumption of jurisdiction under Section 300.

(e) In any case in which the court has ordered that a parent or guardian shall retain physical custody of a minor subject to supervision by a probation officer, and the probation officer subsequently receives a report of acts or circumstances which indicate that there is reasonable cause to believe that the minor is a person described in subdivision (d) of Section 300, the probation officer shall commence proceedings under this chapter. If, as a result of the proceedings required, the court finds that the minor is a person described in subdivision (d) of Section 300, the court shall remove such minor from the care, custody, and control of the minor's parent or guardian and shall commit such minor to the care, custody, and control of the probation officer pursuant to Section 362.

SEC. 23. Section 365 of the Welfare and Institutions Code is amended to read:

365. The court may require the probation officer or any other agency to render such periodic reports concerning minors committed to its care, custody, and control under the provisions of Section 362 as the court may deem necessary or desirable. The court may require that the probation officer, or any other public agency organized to provide care for needy or neglected children, shall perform such visitation and make such periodic reports to the courts

concerning minors committed under such provisions as the court may deem necessary or desirable.

SEC. 24. Section 366 of the Welfare and Institutions Code is repealed.

SEC. 25. Section 366 is added to the Welfare and Institutions Code, to read:

366. (a) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months until the permanency planning hearing required under Section 366.25 is completed. The court shall determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

(b) Subsequent to the permanency planning hearing periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.25 and 16503.

SEC. 26. Section 366.2 is added to the Welfare and Institutions Code, to read:

366.2. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.

(b) Notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's present custodian, and to counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on such persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued.

(c) At least 16 days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services offered to the family, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 14 days before the hearing.

(d) At the review hearing, the court shall order the return of the minor to the physical custody of his or her parents or guardians unless it finds that return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing such detriment. The failure of the parent or guardian to participate in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its

determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing a proceeding pursuant to Section 232 of the Civil Code may be instituted.

SEC. 27. Section 366.25 is added to the Welfare and Institutions Code, to read:

366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (d) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original placement and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months review as provided for in Section 366.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on such persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) At the hearing the court shall first determine whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (d) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing.

(d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that the minor is adoptable, according to the provisions of this article, the court shall order the county counsel, or if there is no county counsel, the district attorney, to initiate an action to declare the minor permanently free from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that the minor is not adoptable or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) apply, but that one or more adults are available and eligible to become legal guardians for the minor, the court shall order the appropriate county department to initiate or facilitate guardianship proceedings, unless the minor's foster parents are unable to become legal guardians of the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(3) If the court finds that the minor is not adoptable and that there is not a suitable adult available to become the legal guardian of the child, the court shall order the county welfare department or probation department to facilitate the placement of the minor in a home environment that can reasonably be expected to be stable and permanent. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.

(e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court shall have the power to appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(f) When an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor.

(g) Periodic reviews conducted by the court subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(h) Physical custody of a minor by his or her parents or guardians

for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of such periods.

(i) Permanency planning hearings need not be held if (1) an action under Section 232 of the Civil Code has been commenced or (2) an action to establish a legal guardianship or appoint a legal guardian under the Probate Code has been commenced.

(j) Subsequent reviews shall be conducted every six months and be conducted by an administrative review board except when the court requires a court review or a court review is requested by the minor's parents or guardian or by the minor.

SEC. 28. Section 727 of the Welfare and Institutions Code is amended to read:

727. (a) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or Section 602 the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such minor, including medical treatment, subject to further order of the court.

The court shall order the care, custody, and control of such minor to be under the supervision of the probation officer who may place such minor in any of the following:

(1) The home of a relative.

(2) A suitable licensed community care facility.

(3) With a home-finding agency to be placed in a suitable licensed home or exclusive use home which has been certified by the agency as meeting licensing standards.

(b) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided all the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain

custody of such minor subject to the supervision of the probation officer, the parent or guardian may be required to participate with such minor in a counseling program to be provided by an appropriate agency designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (b).

SEC. 29. Chapter 5 (commencing with Section 10200) is added to Part 1.5 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 5. COST PROVISIONS

10200. It is the intent of the Legislature that counties shall continue to provide matching funds for county-administered social services programs as these programs are defined by Sections 11503, 12251 and 16501 and other services to be provided in accordance with Section 10202.

Each county's required matching funds for these services shall be the amount specified in the table below.

Alameda	$2,606,679
Alpine	11,486
Amador	22,121
Butte	292,178
Calaveras	39,016
Colusa	28,351
Contra Costa	2,194,933
Del Norte	45,713
El Dorado	143,819
Fresno	1,120,396
Glenn	38,854
Humboldt	247,140
Imperial	201,429
Inyo	33,491
Kern	889,410
Kings	165,170
Lake	75,482
Lassen	35,757
Los Angeles	17,821,660
Madera	161,116
Marin	357,202
Mariposa	17,177
Mendocino	187,374
Merced	323,784
Modoc	18,936
Mono	14,156
Monterey	494,833
Napa	167,285

Nevada	74,573
Orange	2,037,290
Placer	200,390
Plumas	32,577
Riverside	1,300,518
Sacramento	2,205,919
San Benito	32,690
San Bernardino	1,678,695
San Diego	3,468,683
San Francisco	2,020,293
San Joaquin	1,056,746
San Luis Obispo	211,767
San Mateo	1,208,042
Santa Barbara	470,181
Santa Clara	2,949,481
Santa Cruz	354,732
Shasta	289,394
Sierra	13,279
Siskiyou	60,316
Solano	441,744
Sonoma	582,870
Stanislaus	677,212
Sutter	110,553
Tehama	73,691
Trinity	23,032
Tulare	643,092
Tuolumne	57,921
Ventura	683,828
Yolo	200,201
Yuba	150,938
Grand Total	$51,065,596

Nothing in this section shall be construed to affect any matching requirement established upon each county pursuant to Section 12306.

10201. Nothing in this chapter shall mandate a county share of more than 25 percent of actual county expenditures for each year. The county shares, as specified in Section 10200, shall be increased annually by the percentage cost-of-living increase contained in the Budget Act for county administered social services or shall be 25 percent of expenditures by the county in that year for county administered social services, whichever is less.

10202. The State Department of Social Services shall establish and maintain a plan whereby costs of county administered social services programs will be effectively controlled within the amount annually appropriated for these services. Each county shall utilize least cost services, provided that the quality of services is maintained. Allocations shall be made to each county and shall be limited by, and

determined based upon, an allocation plan developed by the State Department of Social Services and approved by the Department of Finance. In administering the plan, the State Department of Social Services shall not allocate funds to cover county cost overruns which result from county failure to meet requirements of the plan.

10203. All federal funds under Title IV-B of the Social Security Act, which are appropriated to the state shall be passed on to the counties, except for those reasonable funds needed to finance a required statewide foster care management information system. In passing on federal funds to the counties, the state shall not require counties to provide matching funds in amounts greater than the amount required of the state by the federal government.

SEC. 30. Section 12054 of the Welfare and Institutions Code is amended to read:

12054. "Secretary" means the Secretary of the Department of Health and Human Services.

SEC. 31. Section 12251 of the Welfare and Institutions Code is amended to read:

12251. As used in this article, and Article 7 (commencing with Section 12300), the term "social services" includes in-home supportive services, information and referral services, protective services, and out-of-home care services as such services are defined by the department in order to secure maximum federal financial participation.

SEC. 31.5. Section 12301.1 of the Welfare and Institutions Code is amended to read:

12301.1. The department shall adopt regulations establishing a uniform range of services available to all eligible recipients based upon individual needs. The availability of services under these regulations are subject to the provisions of Section 12301 and county plans developed pursuant to Section 12302. The county welfare department shall assess the continuing need of services for each recipient as necessary, but at least once every 12 months.

SEC. 32. 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.

SEC. 33. The heading of Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 of the Welfare and Institutions Code is amended to read:

CHAPTER 5. STATE CHILD WELFARE SERVICES

SEC. 34. Section 16500 of the Welfare and Institutions Code is amended to read:

16500. The state, through the department and county welfare departments, shall establish and support a public system of statewide child welfare services to be developed as rapidly as possible and to be available in each county of the state. All counties shall establish and maintain specialized organizational entities within the county welfare department which shall have sole responsibility for the

operation of the child welfare services program.

SEC. 35. Section 16501 of the Welfare and Institutions Code is amended to read:

16501. As used in this chapter, "child welfare services" means public social services which are directed toward the accomplishment of the following purposes: (a) protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; (b) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; (c) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (d) restoring to their families children who have been removed, by the provision of services to the child and the families; (e) identifying children to be placed in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (f) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. Child welfare services may include, but are not limited to: case management, counseling, emergency shelter care, emergency in-home caretakers, temporary in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training, and transportation.

The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated by the department. Counties may contract for child welfare services, as defined in Sections 16504.1, 16506.1, 16507.1, and 16508.1. Each county shall use available private child welfare resources prior to developing new county-operated resources when the private child welfare resources are of at least equal quality and lesser or equal cost as compared with county-operated resources. Counties shall not contract for needs assessment, client eligibility determination, or any other activity as specified by regulations of the State Department of Social Services.

Nothing in this chapter shall be construed to affect duties which are delegated to probation officers pursuant to Sections 601 and 654 of the Welfare and Institutions Code.

Any county may utilize volunteer individuals to supplement professional child welfare services in the areas of transportation, respite care, and emergency foster care, provided all volunteers agree to be subject to the State Department of Social Services regulations.

SEC. 36. Section 16501.1 is added to the Welfare and Institutions Code, to read:

16501.1. Preplacement Preventive Services are those services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(a) The Emergency Response Program is a component of Preplacement Preventive Services and is a response system which provides immediate in-person response, 24 hours a day, seven days a week to reports of abuse, neglect, or exploitation, in order to maintain the child safely in his or her own home.

(b) The Child Protective Services Program is a component of Preplacement Preventive Services and consists of those remedial and preventive activities and purchases by social services staff to protect the welfare of children who either are being or are in danger of being abused, neglected or exploited.

This section shall only remain operative until October 1, 1983, and as of such date is repealed, unless a later enacted statute extends or deletes that date.

SEC. 37. Section 16501.1 is added to the Welfare and Institutions Code, to read:

16501.1. Preplacement Preventive Services are those services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(a) The Emergency Response Program is a component of Preplacement Preventive Services and is a response system which provides immediate in-person response, 24 hours a day, seven days a week to reports of abuse, neglect, or exploitation, for the purpose of providing initial intake services and crisis intervention to maintain the child safely in his or her own home or to protect the safety of the child.

(b) The Family Maintenance Program is a component of Preplacement Preventive Services and is designed to provide time-limited protective services to prevent or remedy neglect, abuse, or exploitation, for the purposes of preventing separation of children from their families.

This section shall become operative on October 1, 1983, unless a later enacted statute extends or deletes that date.

SEC. 38. Section 16501.2 is added to the Welfare and Institutions Code, to read:

16501.2. The Family Reunification Program is designed to provide time-limited foster care services to prevent or remedy neglect, abuse, or exploitation, when the child cannot safely remain at home, and needs temporary foster care, while services are provided to reunite the family.

SEC. 39. Section 16501.3 is added to the Welfare and Institutions Code, to read:

16501.3. The Permanent Placement Program is designed to provide an alternate permanent family structure for children who because of abuse, neglect, or exploitation cannot safely remain at home and who are unlikely to ever return home.

SEC. 40. Section 16502 of the Welfare and Institutions Code is amended to read:

16502. The child welfare services authorized by this chapter shall be established in any county or combination of counties when a plan

which includes financing of such services has been certified by the department. Such certified plan of child welfare services shall then be operated in accordance with standards and regulations established by the department, subject to all the provisions of this code relating to the supervision of public social services by the department.

SEC. 40.5. Section 16503 is added to the Welfare and Institutions Code, to read:

16503. (a) Subsequent to completion of the permanency planning hearing conducted pursuant to Section 366.25, the agency responsible for placement and care of a minor, as defined in subdivision (e) of Section 11400, shall ensure that a child in foster care shall receive administrative reviews periodically but no less frequently than once every six months. The administrative review shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(b) The term "administrative review" means a review open to the participation of the parents of a child in foster care conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to either the child or the parents who are the subject of the review.

(c) The department shall develop and implement regulations establishing processes, procedures and standards for the conduct of administrative reviews.

(d) The requirements of this section shall not be interpreted as requiring duplicate concurrent court and administrative reviews.

SEC. 41. Section 16504 of the Welfare and Institutions Code is amended to read:

16504. Any child reported to the county welfare department to be endangered by abuse, neglect, or exploitation shall be eligible for emergency response services. Each county welfare department shall maintain and operate a 24-hour response system. An immediate in-person response shall be made by a county welfare department social worker in emergency situations in accordance with regulations of the department. The person making any initial response to a request for child welfare services shall consider providing appropriate social services to maintain the child safely in his or her own home.

This section shall only remain operative until October 1, 1983, and as of such date is repealed, unless a later enacted statute extends or deletes that date.

SEC. 42. Section 16504 is added to the Welfare and Institutions Code, to read:

16504. Any child reported to the county welfare department to be endangered by abuse, neglect, or exploitation shall be eligible for initial intake and assessment services. Each county welfare department shall maintain and operate a 24-hour response system.

An immediate in-person response shall be made by a county welfare department social worker in emergency situations in accordance with regulations of the department. The person making any initial response to a request for child welfare services shall consider providing appropriate social services to maintain the child safely in his or her own home.

This section shall become operative on October 1, 1983, unless a later enacted statute extends or deletes that date.

SEC. 43. Section 16505 of the Welfare and Institutions Code is amended and renumbered to read:

16504.1. Services in emergency situations shall include, but not be limited to, counseling, emergency shelter care, respite care, teaching and demonstration homemakers, and transportation.

This section shall only remain operative until October 1, 1983, and as of such date is repealed, unless a later enacted statute extends or deletes that date.

SEC. 44. Section 16504.1 is added to the Welfare and Institutions Code, to read:

16504.1. Services in emergency situations shall include, but not be limited to, initial intake, crisis intervention, counseling, emergency shelter care, and transportation.

This section shall become operative on October 1, 1983, unless a later enacted statute extends or deletes that date.

SEC. 45. Section 16506 of the Welfare and Institutions Code is amended and renumbered to read:

16511. This chapter shall not be construed to give the department or county welfare departments any law enforcement powers.

Nothing in this chapter shall be construed in such a manner as to give the department any law enforcement powers, nor to change or interfere with the responsibility of law enforcement, probation officers and departments to take direct action on behalf of children as provided in Article 6 (commencing with Section 625) of Chapter 2 of Part 1 and Article 7 (commencing with Section 650) of Chapter 2 of Part 1 of Division 2. Nor shall this part in any way relieve persons administering and working in child welfare services programs from the obligation resting on all citizens to report crimes to duly authorized law enforcement agencies. Nothing herein shall be construed as changing in any way the responsibility of probation officers and departments for initiating juvenile court proceedings as set forth in Article 7 (commencing with Section 650) of Chapter 2 of Part 1 of Division 2, nor other duties and responsibilities assigned to them by law.

SEC. 46. Section 16506 is added to the Welfare and Institutions Code, to read:

16506. Child protective services shall be provided or arranged for by county welfare department staff in order to maintain the child in his or her own home. Child protective services shall be available without regard to income and shall only be provided to either of the following:

(1) Families whose child has been adjudicated a dependent of the court under Section 300 of this code, and where the court has ordered the county welfare department to supervise while the child remains in the child's own home.

(2) Families whose child is in potential danger of abuse, neglect, or exploitation, who are willing to accept services and participate in corrective efforts, and where it is safe for the child to remain in the child's own home only with the provision of services.

This section shall only remain in effect until October 1, 1983, and on that date is repealed, unless a later enacted statute extends or deletes that date.

SEC. 47. Section 16506 is added to the Welfare and Institutions Code, to read:

16506. Family maintenance services shall be provided or arranged for by county welfare department staff in order to maintain the child in his or her own home. Such services shall be limited to six months, and may be extended for two three-month periods if it can be shown that the objectives of the service plan can be achieved within the extended time periods. Family maintenance services shall be available without regard to income and shall only be provided to either of the following:

(1) Families whose child has been adjudicated a dependent of the court under Section 300, and where the court has ordered the county welfare department to supervise while the child remains in the child's own home.

(2) Families whose child is in potential danger of abuse, neglect, or exploitation, who are willing to accept services and participate in corrective efforts, and where it is safe for the child to remain in the child's own home only with the provision of services.

This section shall become operative on October 1, 1983, unless a later enacted statute extends or deletes that date.

SEC. 48. Section 16506.1 is added to the Welfare and Institutions Code, to read:

16506.1. Child protective services shall include, but not be limited to, counseling, emergency shelter care, teaching and demonstrating homemakers, and transportation.

This section shall only remain operative until October 1, 1983, and as of such date is repealed, unless a later enacted statute extends or deletes that date.

SEC. 49. Section 16506.1 is added to the Welfare and Institutions Code, to read:

16506.1. Family maintenance services shall include, but not be limited to, counseling, emergency shelter care, temporary in-home caretakers, out-of-home respite care, teaching and demonstrating homemakers, parenting training and transportation.

This section shall become operative on October 1, 1983, unless a later enacted statute extends or deletes that date.

SEC. 50. Section 16507 of the Welfare and Institutions Code is amended and renumbered to read:

16512. The department shall report annually to the Legislature on the operation and progress of the child welfare services program.

SEC. 51. Section 16507 is added to the Welfare and Institutions Code, to read:

16507. Family reunification services shall be provided or arranged for by county welfare department staff in order to reunite the child separated from his parent because of abuse, neglect, or exploitation. These services shall not exceed 12 months except as provided in subdivision (e) of Section 361. Family reunification services shall be available without regard to income to families whose child has been adjudicated or is in the process of being adjudicated a dependent child of the court under the provisions of Section 300.

SEC. 52. Section 16507.1 is added to the Welfare and Institutions Code, to read:

16507.1. Family reunification services shall include, but not be limited to, counseling, emergency shelter care, teaching and demonstrating homemakers, parenting training and transportation.

SEC. 53. Section 16507.2 is added to the Welfare and Institutions Code, to read:

16507.2. Prior to entering into a voluntary placement agreement with a parent or guardian, the social worker shall make every attempt to keep the family together by offering appropriate child welfare services except in the case of a voluntary placement pending relinquishment as provided for in subdivision (c) of Section 16507.4.

SEC. 54. Section 16507.3 is added to the Welfare and Institutions Code, to read:

16507.3. (a) Beginning on October 1, 1982, child welfare services for children placed voluntarily after January 1, 1982, shall be limited to a period not to exceed six months.

(b) An otherwise eligible child placed voluntarily prior to January 1, 1982, may remain eligible for child welfare services without regard to the length of time in placement until April 1, 1984. Beginning on October 1, 1982, such a child shall receive administrative review pursuant to the requirements of Section 16503.

SEC. 55. Section 16507.4 is added to the Welfare and Institutions Code, to read:

16507.4. Notwithstanding any other provisions of this chapter, voluntary family reunification services shall be provided without fee to families who qualify, or would qualify if application had been made therefor, as recipients of public assistance under the Aid to Families with Dependent Children program. If the family is not qualified for such aid, voluntary family reunification services may be utilized, provided that the county seeks reimbursement from the parent or guardian on a statewide sliding scale according to income as determined by the State Department of Social Services and approved by the Department of Finance.

An out-of-home placement of a minor without adjudication by the juvenile court may occur only when both of the following conditions exist:

(a) There is a mutual decision between the child's parent or guardian and the county welfare department in accordance with regulations promulgated by the State Department of Social Services.

(b) There is a written agreement between the county welfare department and the parent or guardian specifying the terms of the voluntary placement. The State Department of Social Services shall develop a form for voluntary placement agreements which shall be used by all counties. The form shall indicate that foster care under the Aid to Families with Dependent Children program is available to such children.

(c) In the case of a voluntary placement pending relinquishment, a county welfare department shall have the option of delegating to a licensed private adoption agency the responsibility for placement by such county welfare department. If such delegation occurs the voluntary placement agreement shall be signed by the county welfare department, the child's parent or guardian, and the licensed private adoption agency.

SEC. 56. Section 16507.5 is added to the Welfare and Institutions Code, to read:

16507.5. (a) When a minor is separated or is in the process of being separated from the minor's family under the provisions of a voluntary placement agreement, the county welfare department or a licensed private or public adoption agency social worker shall make any and all reasonable and necessary provisions for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment.

Responsibility for placement and care of the minor shall be with the social worker who may place the minor in any of the following:

(1) The home of a relative.

(2) A suitable licensed community care facility.

(3) With a home-finding agency to be placed in a suitable licensed home or exclusive use home which has been certified by the agency as meeting licensing standards.

(b) If, for a specific child, the social worker has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the child may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided all of the following certification conditions are met:

(1) A preplacement home visit is made by the social worker to determine the suitability of the family home.

(2) The social worker verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The social worker notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor.

If the license is subsequently denied, the child shall be removed

from the home immediately. The denial of the license constitutes a withdrawal of the certification.

SEC. 57. Section 16507.6 is added to the Welfare and Institutions Code, to read:

16507.6. If a minor has been voluntarily placed with the county welfare department subsequent to January 1, 1982, for out-of-home placement by his or her parents or guardians pursuant to this chapter and the minor has remained out of their physical custody for six consecutive months, the department shall do one of the following:

(a) Return the minor to the physical custody of his or her parents or guardians.

(b) Refer the minor to a licensed adoption agency for consideration of adoptive planning and receipt of a permanent relinquishment of care and custody rights from the parents pursuant to subdivision (m) of Section 224 of the Civil Code.

(c) Apply for a petition pursuant to Section 332 and file the petition with the juvenile court to have the minor declared a dependent child of the court under Section 300.

(d) For those children placed voluntarily prior to January 1, 1981, the 6-month consecutive time period for provision of child welfare services shall commence October 1, 1982.

SEC. 58. Section 16508 of the Welfare and Institutions Code is amended and renumbered to read:

16509. Cultural and religious child-rearing practices and beliefs which differ from general community standards shall not in themselves create a need for child welfare services unless the practices present a specific danger to the physical or emotional safety of the child.

SEC. 59. Section 16508 is added to the Welfare and Institutions Code, to read:

16508. Permanent placement services shall be provided or arranged for by county welfare department staff for children who cannot safely live with their parents and are not likely to return to their own homes. Permanent placement services shall be available without regard to income to the following children:

(a) Children judged dependent under Section 300 where a review has determined that reunification, adoption, or guardianship is inappropriate.

(b) Recipients of public assistance under nonfederally funded Aid to Families with Dependent Children programs who are wards of a legal guardian where a review has determined that reunification or adoption is inappropriate.

SEC. 60. Section 16508.1 is added to the Welfare and Institutions Code, to read:

16508.1. Permanent placement services shall include, but not be limited to, emergency shelter care.

SEC. 61. Section 16509 of the Welfare and Institutions Code is amended and renumbered to read:

16513. Anyone participating in good faith in the making of a

report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report. Any person required by law to report under Sections 11165 and 11166 of the Penal Code who has reason to believe that the home or institution in which a minor resides is unsuitable for the minor because of the neglect, abuse, or exploitation of such minor, shall bring such condition to the attention of the law enforcement agency pursuant to Sections 11165 and 11166 of the Penal Code.

SEC. 62. Section 16509.1 is added to the Welfare and Institutions Code, to read:

16509.1. No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to have been neglected within the purview of this chapter.

SEC. 63. Section 16509.2 is added to the Welfare and Institutions Code, to read:

16509.2. The physical or mental incapacity, or both, in itself, of a parent or a child, shall not result in a presumption of need for child welfare services.

SEC. 64. Section 16510 of the Welfare and Institutions Code is amended and renumbered to read:

16514. (a) A minor who has been voluntarily placed or adjudged a dependent child of the juvenile court pursuant to Section 300 may be housed in an emergency shelter or placed in a foster family home with minors adjudicated pursuant to Section 601.

(b) A minor who has been voluntarily placed or adjudged a dependent child of the juvenile court pursuant to Section 300, or adjudged a ward of the juvenile court pursuant to Section 601, shall not be housed in an emergency shelter with any minor adjudged a ward of the juvenile court pursuant to Section 602.

(c) A minor who has been voluntarily placed or adjudged a dependent child of the juvenile court pursuant to Section 300 shall not be placed in a group home or foster family home with any minor adjudged a ward of the juvenile court pursuant to Sections 601 and 602, unless the social worker or probation officer has determined that the group home or foster family home has a program that meets the specific needs of the minor being placed, and there is a commonality of needs with the other minors in the group home or foster home.

SEC. 65. Section 16511 of the Welfare and Institutions Code is repealed.

SEC. 66. Section 16511.5 of the Welfare and Institutions Code is repealed.

SEC. 67. Section 16512 of the Welfare and Institutions Code is repealed.

SEC. 68. Chapter 4 (commencing with Section 18250) of Part 6

of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 69. County welfare departments shall be permitted a three-month period commencing with the effective date of this act, for phased-in implementation of the provisions of this act.

SEC. 70. The provisions of this act shall become operative on July 1, 1982, except for Sections 37, 42, 43, 47, 49, and 50, which shall become operative on October 1, 1983.

SEC. 71. The provisions of this act shall be implemented in the most cost-effective manner possible consistent with federal law.

SEC. 72. In the event that any change in federal funds occurs after July 1, 1982, which results in a reduction of funds available for child welfare services, the department shall by regulations reduce the mandates upon counties consistent with the funding available.

In the event that child welfare services funding levels in a fiscal year fall below funding levels in fiscal year 1981–82, counties shall only be responsible for meeting child welfare service mandates, which for purposes of this act, shall be deemed to include all those activities of the probation department or county welfare departments related to juvenile court proceedings which were in effect on June 30, 1982. If the Department of Social Services must reduce the child welfare mandates contained in this act, it shall consult with the County Supervisors Association of California when developing regulations and it shall notify the Legislature in accordance with the procedures outlined in Section 28 of the Budget Act of 1982.

SEC. 73. The Legislative Analyst shall report to the Legislature on the impact of this act no later than January 1, 1985.

SEC. 74. During the 1982–83 fiscal year, the cost savings attributable to the reduction in frequency of reviews under Section 12301.1 of the Welfare and Institutions Code as amended by Section 31.5 of this act shall not revert to the General Fund, but shall be identified by the Department of Social Services in their 1982–83 budget and, shall be used to implement social service mandates resulting from this act.

The Legislative Analyst shall: (a) Identify the reduction in the In-Home Supportive Services administrative costs during the 1982–83 fiscal year due to the reduction in the frequency in assessments pursuant to Section 12301.1, and (b) estimate projected savings during the 1983–84 fiscal year. It is the intent of the Legislature that, unless otherwise designated in the Budget Act, savings accrued from reassessment of recipients under the In-Home Supportive Services Program at least every 12 months as specified in Section 12301.1 of the Welfare and Institutions Code, shall be used for the In-Home Supportive Services Program during the 1983–84 fiscal year.

SEC. 75. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, regulations adopted by the State Department of Social Services, within 90 days of the enactment of

this act in order to implement the provisions of this act shall not be subject to the review and approval of the Office of Administrative Law. 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.

SEC. 76. 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 implements a federal law or regulation and involves only "costs mandated by the federal government," as defined by Section 2206 of the Revenue and Taxation Code.

SEC. 77. It is the intent of the Legislature to undertake a review of county-administered public social services programs in order to determine funding priorities in the Budget Act for the 1983–84 fiscal year.

It is further the intent of the Legislature that the 1983–84 Governor's Budget shall identify appropriate sources of funds for continued implementation of the provisions of this act.

SEC. 78. This act is an urgency statute necessary for the immediate preservation of 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 California to conform to newly enacted federal legislation, P.L. 96-272, it is necessary that this act go into effect immediately.

CHAPTER 979

An act to amend Sections 6201, 6202, 6203, and 6204 of the Business and Professions Code, relating to attorney's fees.

[Approved by Governor September 13, 1982 Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 6201 of the Business and Professions Code is amended to read:

6201. (a) The rules adopted by the board of governors shall provide that, except as to an action filed in small claims court, an attorney shall forward a written notice to the client prior to or at the time of service of summons in an action against the client for recovery of fees covered by the provisions of this article. The written notice shall be in such form as the board of governors may prescribe, but shall include a statement of the client's rights to arbitrate under this article. Failure to give this notice shall be a ground for the

dismissal of the action.

The rules adopted by the board of governors shall provide that the client's failure to request arbitration within 30 days after receipt of notice from the attorney shall be deemed a waiver of the client's right to arbitration under the provisions of this article.

(b) If an attorney, or the attorney's assignee, subject to the provisions of this article, commences an action in any court, other than a small claims court, and the dispute is one to which subdivision (a) of Section 6200 applies, the client may stay the action by serving and filing a request for arbitration in accordance with the rules established by the board of governors pursuant to subdivision (a) of Section 6200. If, prior to the client initiating arbitration proceedings under this article, the attorney files an action against the client in small claims court for recovery of a fee covered by the provisions of this article, the small claims action, including any appeal, shall not be stayed under the provisions of this section, and the matter shall not be subject to arbitration under this article while the matter is pending in small claims court or after judgment is given in that court. The request for arbitration shall be served and filed prior to the filing of an answer in the action; failure to so request arbitration prior to the filing of an answer shall be deemed a waiver of the client's right to arbitration under the provisions of this article if notice of the client's right to arbitration was given pursuant to subdivision (a).

(c) Upon filing and service of the request, unless the court finds that the matter is not an appropriate one for arbitration under the provisions of this article, the action shall be stayed until the award of the arbitrators is issued or the arbitration is otherwise terminated. The action may thereafter proceed upon application of the attorney subject to the provisions of Section 6204.

(d) A client's right to request or maintain arbitration under the provisions of this article is waived by the commencement of an action or the filing of any pleading by the client seeking judicial resolution of a fee dispute in which subdivision (a) of Section 6200 applies, or seeking affirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct.

SEC. 2. Section 6202 of the Business and Professions Code is amended to read:

6202. The provisions of Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code shall not prohibit the disclosure of any communication which may be relevant to a dispute in an arbitration hearing pursuant to this article or to enforce an arbitration award pursuant to Section 6203 or in connection with a trial de novo pursuant to Section 6204. The provisions of Section 2016 of the Code of Civil Procedure shall not prohibit the disclosure of any work product of the attorney which may be relevant to a dispute in the arbitration hearing or to enforce such an arbitration award or in connection with the judicial review of such award. The disclosure of any attorney-client communication or attorney's work

product, as provided in this section, shall be limited to relevant communications between the parties to the fee dispute and the work product for which the disputed fee has been demanded, and in no event shall such disclosure be deemed a waiver of the confidential character of such matters for any other purpose.

SEC. 3. Section 6203 of the Business and Professions Code is amended to read:

6203. (a) The award shall be in writing and signed by the arbitrators concurring therein. It shall include a determination of all the questions submitted to the arbitrators, the decision of which is necessary in order to determine the controversy.

(b) Unless a party to the arbitration has timely sought a trial de novo pursuant to subdivision (a) of Section 6204 and in no event before the passage of 30 days after mailing of notice of the award, an arbitration award shall become final and may be confirmed, corrected, or vacated by petition to the court in the same manner as with arbitration awards generally, as provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure. A court confirming, correcting, or vacating an award under this section may award to the prevailing party reasonable fees and costs including, if applicable, fees or costs on appeal, incurred in obtaining confirmation, correction, or vacation of the award. The party obtaining judgment confirming, correcting, or vacating the award shall be the prevailing party except that, without regard to consideration of who the prevailing party may be, if a party did not appear at the arbitration hearing in the manner provided by the rules adopted by the Board of Governors, that party shall not be entitled to attorney's fees or costs upon confirmation, correction, or vacation of the award.

SEC. 4. Section 6204 of the Business and Professions Code is amended to read:

6204. (a) The parties may agree in writing to be bound by the award of the arbitrators. In the absence of an agreement, either party shall be entitled to a trial de novo. The trial de novo shall be initiated by the commencement of an action in the court having jurisdiction over the amount of money in controversy within 30 days after mailing of notice of the award.

In lieu of commencing such an action, and within 30 days after the mailing of notice of the award, a party seeking a trial de novo may file a pleading to such effect in any action which has been abated pursuant to Section 6201.

(b) The party seeking a trial de novo shall be the prevailing party if that party obtains a judgment more favorable than that provided by the arbitration award, and in all other cases the other party shall be the prevailing party. The prevailing party may, in the discretion of the court, be entitled to an allowance for reasonable attorneys' fees and costs incurred in the trial de novo, which allowance shall be fixed by the court. Without regard to consideration of who the prevailing party may be, if a party does not appear at the arbitration hearing

in the manner provided by the rules adopted by the board of governors, that party shall not be entitled to attorneys' fees upon a trial de novo. In fixing the attorneys' fees, the court shall consider the award and determinations of the arbitrators, in addition to any other relevant evidence.

(c) Except as provided in this section, the award and determinations of the arbitrators shall not be admissible nor operate as collateral estoppel or res judicata in any action or proceeding.

CHAPTER 980

An act to amend Section 84890 of, to add and repeal Sections 5019.1 and 84520.5 of, and to repeal and add Section 84520 to, the Education Code, relating to community college districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 5019.1 is added to the Education Code, to read:

5019.1. Notwithstanding any other provision of law, each community college district which contains a total population figure of more than 500,000, as determined by the 1980 federal census, and which has community colleges located in more than one county, may reapportion its trustee areas so that each area is, as nearly as may be, of equal population density, and may require that trustees be elected only by the voters of that area. The reapportionment of trustee areas and any modification in election procedures shall be completed prior to the first trustee election which is conducted subsequent to January 1, 1983.

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 that date.

SEC. 2. Section 84520 of the Education Code is repealed.

SEC. 3. Section 84520 is added to the Education Code, to read:

84520. (a) Pursuant to the provisions of Section 84500 and rules and regulations adopted by the board of governors, the units of average daily attendance for apportionment purposes shall be computed for courses based on the type of course, the way the course is scheduled, and the length of the course.

(b) The governing board of each community college district shall, for each of its colleges or its district, select and establish a single primary term length for credit courses that are scheduled regularly with respect to the number of days of the week and the number of hours the course meets on each scheduled day. The units of average

daily attendance of these courses scheduled coterminous with the term shall be computed by multiplying the average weekly student contact hours of enrollment as of Monday of the weeks nearest to one-fifth and three-fifths of the length of the term, unless other weeks are specified by the chancellor to incorporate past practice, by the term length multiplier, multiplied by the statewide factor established by the board of governors subject to the approval of the Department of Finance, and divided by 525. The term length multiplier for attendance accounting purposes shall be determined in accordance with regulations of the board of governors, provided that the maximum multiplier for semester length terms shall be 17.5 and the maximum multiplier for quarter length terms shall be 11.67.

(c) For credit courses scheduled to meet for five or more days, and scheduled regularly with respect to the number of hours during each scheduled day, but not scheduled coterminous with the college's primary term established pursuant to subdivision (b), the units of average daily attendance shall be computed by multiplying the average daily student contact hours of enrollment as recorded for the census days nearest to one-fifth and three-fifths of the length of the course by the number of days the course is scheduled to meet, multiplied by the statewide factor established by the board of governors subject to the approval of the Department of Finance, and divided by 525.

(d) For credit courses scheduled to meet for fewer than five days, and all credit courses scheduled irregularly with respect to the number of days of the week and the number of hours the course meets on the scheduled days, the units of average daily attendance shall be computed by dividing actual student contact hours of attendance by 525.

(e) For all open entry-open exit credit courses and for all noncredit courses otherwise eligible for state aid, the units of average daily attendance shall be computed by dividing actual student contact hours of attendance by 525.

(f) For independent study or work experience courses, one weekly student contact hour shall be counted for each unit of credit for which the student is enrolled. Units of average daily attendance shall be computed by multiplying the weekly student contact hours by the number of weeks the course is scheduled, and dividing by 525.

(g) Notwithstanding subdivision (b) and (c) of this section, the units of average daily attendance for any credit course may, at the option of the district, be computed by dividing the actual student contact hours of attendance by 525.

(h) The provisions of this section shall become operative on July 1, 1983, except that the chancellor may make this section applicable to individual districts prior to July 1, 1983, upon written request of those districts. If the chancellor grants the written request of any district to operate under this section prior to July 1, 1983, the chancellor shall file written notice of his or her action with both houses of the California Legislature.

SEC. 4. Section 84520.5 is added to the Education Code, to read:

84520.5. (a) Pursuant to the provisions of Section 84500, the units of average daily attendance for apportionment purposes of regularly enrolled students of a community college district during the academic year, as defined in Section 79001, shall be computed by multiplying the weekly student contact hours of enrollment as recorded for the census day or days each semester or quarter by statewide factors heretofore established by the board of governors, subject to review by the Department of Finance. The census day shall be Monday of each of two census weeks of five or six consecutive days of regularly scheduled classes each term or session as approved by the board of governors.

(b) For purposes of computing the units of average daily attendance for courses which do not have a regularly scheduled number of weekly student contact hours, one weekly student contact hour shall be counted for each unit of credit in which a student is enrolled during any census period. The nature, manner, and place of conducting courses and programs under this section shall be determined by the community college district pursuant to rules and regulations adopted by the board of governors.

(c) Attendance of regularly enrolled students enrolled in classes conducted in intersession schools, as distinct from summer quarters, of four weeks or more shall be counted in the computation of average daily attendance for apportionment purposes under the provisions of this section using the following formula: Multiply the sum of the weekly student contact hours of enrollment in each class during the census week of each class of the intersession schools by the number of scheduled weeks for each class; multiply the product so derived by the statewide factors established by the board of governors, subject to approval by the Department of Finance, and divide by 525. The census day shall be Monday of the second week. For classes of less than four weeks, the units of average daily attendance shall be computed by dividing the total actual class hours of attendance by 525.

(d) The board of governors shall adopt rules and regulations to implement this section.

(e) This section shall remain in effect only until July 1, 1983, and of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends that date.

SEC. 5. Section 84890 of the Education Code is amended to read:

84890. A community college district board may offer, subject to the approval of the Chancellor's office of the California Community Colleges, and in accordance with rules and regulations to be adopted by the board of governors, courses under a flexible calendar. The sum of the days in the academic year of a district operating pursuant to a flexible calendar shall be at least 175 days, and at least 160 of these days must meet or exceed the standards for counting a day prescribed by the board of governors pursuant to Section 84370 of the Education Code. Not more than 20 days during the academic year

and not more than 15 days per employee per academic year may be designated by a district for conducting staff, student, and instructional improvement activities as specified in Section 84891; and such activities shall be conducted in lieu of part of the regular classroom instruction during the designated days.

SEC. 6. 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. 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 fact constituting the necessity are:

In order to avoid substantial administrative costs which would result from legislation enacted in 1981, and to authorize specified community college districts to initiate proceedings to reapportion trustee areas at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 981

An act to amend Sections 15200.1 and 15200.2 of the Welfare and Institutions Code, relating to child support.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 15200.1 of the Welfare and Institutions Code is amended to read:

15200.1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to a fund to be known as the Support Enforcement Incentive Fund, from which the department shall make payments to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid in collections used to reduce or repay aid which is paid pursuant to this chapter and for aid which is entitled to federal matching funds. These funds shall be deposited in the county general fund.

Where more than one county has participated in the enforcement or collection, the incentive payment authorized by this section shall be made to the county making the collection.

Where more than one state has participated in the enforcement or collection, the incentive payment, if any, shall be made in accordance with Section 15200.2.

SEC. 2. Section 15200.2 of the Welfare and Institutions Code is amended to read:

15200.2. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to a fund to be known as the Interstate Collection Incentive Fund, from which the department shall make payments to California counties and other states, on any support collections distributed on or after October 1, 1982, regardless of the date of collection, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid in collections used to reduce or repay aid which is paid pursuant to this chapter and for aid which is entitled to federal matching funds.

The department shall, by regulation, apportion the incentive payment between the collecting state and the county receiving the support payment.

Where a county makes a collection for another state, the department shall forward any incentive payment received from such state to the county making the collection.

CHAPTER 982

An act to amend Section 11512, as amended by Section 151 of Chapter 714 of the Statutes of 1981, Section 11512.5, Section 11735, as amended by Section 4 of Chapter 660 of the Statutes of 1979, Section 11736, as amended by Section 6 of Chapter 660 of the Statutes of 1979, Section 11893, Section 14009, as amended by Section 10 of Chapter 660 of the Statutes of 1979, and Section 29247 of, and to repeal Section 11512, as added by Section 2 of Chapter 660 of the Statutes of 1979, Section 11735, as added by Section 5 of Chapter 660 of the Statutes of 1979, Section 11736, as added by Section 7 of Chapter 660 of the Statutes of 1979, and Section 14009, as added by Section 11 of Chapter 660 of the Statutes of 1979, of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 11512 of the Food and Agricultural Code is amended to read:

11512. Except as provided in Section 11512.5, the proceedings for all hearings pursuant to this division shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The director shall have all of the powers which are granted in that chapter.

SEC. 2. Section 11512 of the Food and Agricultural Code, as added by Section 2 of Chapter 660 of the Statutes of 1979, is repealed.

SEC. 3. Section 11512.5 of the Food and Agricultural Code is amended to read:

11512.5. Whenever the commissioner suspends a county registration or permit pursuant to Section 11735, 11924, 12035, or 14008 for 10 days or less, the party suspended may appeal to the director within 10 days of mailing or personal service of the commissioner's order. The following procedure shall apply to the appeal:

(a) The appeal need not be formal but it shall be in writing and signed by the appellant or his authorized agent, shall state the grounds for the appeal, and may include a request that the commissioner's suspension order be stayed pending the director's decision.

(b) Any party may, at the time of filing the appeal or within 10 days thereafter, make written application to the director to present new evidence, stating the materiality of the evidence, and the reasons why the evidence was not introduced at the hearing before the commissioner. The evidence may be allowed in the discretion of the director. Thereafter, 10 days shall be given the parties to rebut the evidence and make written application to the director to present oral or written argument. An application to present written argument shall be granted, but the director shall have discretion to grant oral argument or to grant both oral and written argument. If an application to present oral argument is granted, written notice of the time and place for oral argument shall be given each party at least 10 days before the date set therefor. The time may be shortened by mutual agreement of the parties. If written argument is granted, all parties shall be notified thereof and shall simultaneously file briefs within the time specified by the director.

(c) The director shall decide the appeal upon the evidence received at the hearing before the commissioner, and such oral or written argument and new or additional evidence as the director may have received.

(d) On an appeal pursuant to this section, the director may sustain, reverse, or modify the suspension of a county registration or permit, for a period of 10 days or less. A copy of the director's decision shall be delivered or mailed to each party. This shall not be a limitation on the director's authority to (1) institute proceedings

against any state license issued pursuant to this division or any permit issued pursuant to Division 7 (commencing with Section 12501), or (2) sustain, reverse, or modify, on an appeal pursuant to Section 11512, a sanction of more than 10 days imposed on a permittee or registrant by the commissioner.

SEC. 4. Section 11735 of the Food and Agricultural Code, as amended by Section 4 of Chapter 660 of the Statutes of 1979, is amended to read:

11735. A pest control operator registration may be refused, revoked, or suspended by the commissioner, if the commissioner makes any of the following findings:

(a) That the equipment of the registrant or applicant is unsuitable.

(b) That the operators employed by him are incompetent or unqualified.

(c) That the registrant or the applicant has not complied with any provision of this division or of Division 7 (commencing with Section 12501) pertaining to pesticides, or with regulations adopted pursuant to the provisions, or with any lawful order of the commissioner.

SEC. 5. Section 11735 of the Food and Agricultural Code, as added by Section 5 of Chapter 660 of the Statutes of 1979, is repealed.

SEC. 6. Section 11736 of the Food and Agricultural Code, as amended by Section 6 of Chapter 660 of the Statutes of 1979, is amended to read:

11736. Except as provided in Section 11512.5, any person whose registration has been canceled or refused may appeal to the director, within 10 days, for a hearing.

SEC. 7. Section 11736 of the Food and Agricultural Code, as added by Section 7 of Chapter 660 of the Statutes of 1979, is repealed.

SEC. 7.5. Section 11893 of the Food and Agricultural Code is amended to read:

11893. Any person who violates any provision of this division, or any regulation issued pursuant to a provision of this division, shall be liable civilly in an amount not exceeding five hundred dollars ($500) for each violation. Any money recovered under this section shall be paid into the Department of Food and Agriculture Fund for use by the department in administering and enforcing the provisions of this division pursuant to Section 11513, and in administering the provisions of Division 7 (commencing with Section 12501).

SEC. 8. Section 14009 of the Food and Agricultural Code, as amended by Section 10 of Chapter 660 of the Statutes of 1979, is amended to read:

14009. Except as provided in Section 11512.5, any interested person, upon request, is entitled to a hearing before the director to review the action of a commissioner in issuing, refusing, revoking, or suspending a permit, or in imposing any condition which is not expressly specified in the applicable regulations. The proceedings for the hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the

Government Code. Sections 11505 and 11506 of the Government Code shall not, however, apply to the proceedings, and the statement of issues or accusation, as the case may be, shall be delivered or mailed to the parties as provided in Section 11509 of the Government Code.

SEC. 9. Section 14009 of the Food and Agricultural Code, as added by Section 11 of Chapter 660 of the Statutes of 1979, is repealed.

SEC. 10. Section 29247 of the Food and Agricultural Code is amended to read:

29247. Any pesticide applicator who experiences any loss because of a beekeeper's failure to request notification of a pesticide application pursuant to Section 29121 or pursuant to any department rule or regulation, or who experiences any loss because of a beekeeper's failure to register bees pursuant to Section 29241 or 29242, may bring an action for the recovery of damages against that beekeeper.

CHAPTER 983

An act to amend, repeal, and add Section 66427.4 of the Government Code, relating to subdivisions.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 66427.4 of the Government Code is amended to read:

66427.4. At the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a mobilehome park to another use, the subdivider shall also file a report on the impact of the conversion upon the displaced residents of the mobilehome park to be converted. In determining the impact of the conversion on displaced mobilehome park residents, the report shall address the availability of adequate replacement space in mobilehome parks.

The subdivider shall make a copy of the report available to each resident of the mobilehome park at least 15 days prior to the hearing on the map by the advisory agency or, if there is no advisory agency, by the legislative body.

The legislative body, or an advisory agency which is authorized by local ordinance to approve, conditionally approve, or disapprove the map, shall be required to (a) take steps to mitigate any significant adverse impact of the conversion on the ability of displaced mobilehome park residents to find adequate space in a mobilehome park by zoning for additional replacement housing, (b) find that there already exists land zoned for replacement housing or adequate

space in other mobilehome parks for those residents who will be displaced, (c) require the subdivider to take steps to mitigate any significant adverse impact of the conversion on the ability of displaced mobilehome park residents to find adequate space in a mobilehome park, or (d) make a finding, based upon substantial evidence, that mitigation pursuant to subparagraphs (a) and (c) is not feasible. Such finding shall be reviewable pursuant to Section 1094.5 of the Code of Civil Procedure. As used herein, "feasible" shall mean capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

This section establishes a minimum standard for local regulation of conversions of mobilehome parks into other uses and shall not prevent a local agency from enacting more stringent measures.

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. Section 66427.4 is added to the Government Code, to read:

66427.4. At the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a mobilehome park to another use, the subdivider shall also file a report on the impact of the conversion upon the displaced residents of the mobilehome park to be converted. In determining the impact of the conversion on displaced mobilehome park residents, the report shall address the availability of adequate replacement space in mobilehome parks.

The subdivider shall make a copy of the report available to each resident of the mobilehome park at least 15 days prior to the hearing on the map by the advisory agency or, if there is no advisory agency, by the legislative body.

The legislative body, or an advisory agency which is authorized by local ordinance to approve, conditionally approve, or disapprove the map, may require the subdivider to take steps to mitigate any adverse impact of the conversion on the ability of displaced mobilehome park residents to find adequate space in a mobilehome park.

This section establishes a minimum standard for local regulation of conversions of mobilehome parks into other uses and shall not prevent a local agency from enacting more stringent measures.

This section shall become operative January 1, 1989.

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 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 984

An act to amend Section 1241 of, and to add Section 805 to, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 805 is added to the Unemployment Insurance Code, to read:

805. (a) Any employing unit described by Section 634.5 or 801 which the department has assessed under Chapter 4 (commencing with Section 901) for unpaid employer contributions, may elect to finance its coverage in a manner provided by Section 803 effective upon the day an application under Section 801 is filed, if the employing unit meets all of the following conditions:

(1) The employing unit has filed a petition for review of a denial of a claim for refund pursuant to Section 1133 or 1180 for the entire period of the assessment.

(2) The employing unit files a written request for such an election with the director prior to a final administrative decision on the employing unit's petition described in paragraph (1).

(b) If an employing unit makes an election pursuant to subdivision (a), then it shall pay to the department the cost of benefits required by Section 803 from the date of the application for exemption. In addition, the employing unit shall pay a penalty of 10 percent of the amount of benefits paid by the department from the first day of the period for which the assessment was made to the first day of the calendar quarter during which the employing unit files its written request for an election pursuant to this section. The employing unit also shall pay interest on the benefits paid by the department at the rate of 1 percent per month, or fraction thereof, from the day benefits were paid during the period for which the assessment was made to the first day of the calendar quarter during which the employing unit files its request for an election pursuant to this section. The amounts to be paid by the employing unit under this subdivision shall be deemed a cost of benefits and billed as such by the department pursuant to Section 803.

(c) An election pursuant to this section shall not prohibit the department from assessing the employing unit in the manner described in Chapter 4 (commencing with Section 901) for unpaid contributions from the employing unit's first date of operation, as determined by the director, to the date of the election pursuant to subdivision (a).

(d) An election pursuant to this section shall not affect the right of the employing unit to a final decision on the merits of the petition

described in paragraph (1) of subdivision (a). If the employing unit prevails on the merits of its petition, it shall be granted a refund of the cost of benefits and of any penalty and interest paid pursuant to its election under this section.

(e) The election under this section shall continue in effect for not less than wo full calendar years from the effective date of the election, but no election shall be terminated before January 1 of the calendar year following the filing with the director of a written request for an election under this section.

SEC. 2. Section 1241 of the Unemployment Insurance Code is amended to read:

1241. (a) No suit or proceeding shall be maintained in any court for the recovery of any amount of contributions, interest or penalties alleged to have been erroneously or illegally assessed or collected unless a claim for refund or credit has been filed pursuant to this chapter. Within 90 days after the service of the notice of the decision of the appeals board upon an appeal, the claimant may bring an action against the director on the grounds set forth in the claim in a court of competent jurisdiction in the County of Sacramento for the recovery of the whole or any part of the amount with respect to which the claim has been denied. The director may, in writing, extend for a period of not exceeding two years the time within which such action may be instituted if written request for such extension is filed with the director within the 90-day period. Failure to bring action within the time specified constitutes a waiver of any demand against the state on account of alleged overpayments. If the appeals board fails to serve notice of its decision on the appeal within 90 days after an appeal is filed, the claimant may consider the claim denied and may bring an action against the director under this section.

(b) To the extent permitted by federal law, any entity or organization which has made a bona fide claim that it is a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches, may bring suit to challenge a decision of the appeals board denying an exemption as a church or religious organization by paying the amount of the last quarter assessed immediately preceding the initial appeals board decision denying the exemption and then making a claim for refund or credit pursuant to this section.

An entity or organization shall be deemed to have made a bona fide claim that it is a church or religious entity for purposes of this section if either of the following is established:

(1) That it has been recognized as a church or religious organization by any entity of state or federal government.

(2) That the appeals board found that the department has failed to show by a preponderance of the evidence admitted at the proceedings to determine tax liability that the petitioner has not made a bona fide claim of coverage under subdivision (a) as a church

or religious entity.

(c) A petition for writ of mandate shall lie to challenge any decision denying eligibility under subdivision (b), and shall not be deemed an action proscribed by or within the meaning of Section 32 of Article XIII of the California Constitution or Section 1851. The time within which to file any claim or action under subdivision (a) shall be extended during the pendency of any action brought pursuant to this subdivision.

SEC. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 985

An act to amend Sections 19140.5 and 19570 of, to add Section 18801.1 to, and to add Article 4 (commencing with Section 19590) to Chapter 8 of Part 2 of Division 5 of Title 2 of, the Government Code, relating to state officers and employees.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 18801.1 is added to the Government Code, to read:

18801.1. The Department of Personnel Administration shall designate managerial positions, as defined in subdivision (e) of Section 3513, and shall report such designations to the board annually. Any disputes as to the managerial classification or position designations may be appealed to the State Personnel Board.

SEC. 2. Section 19140.5 of the Government Code is amended to read:

19140.5. This section applies only to a permanent employee, or an employee who previously had permanent status and who, since such permanent status, has had no break in the continuity of state service due to a permanent separation.

An employee who is (a) terminated from a temporary or limited-term appointment by either the employee or the appointing power; or (b) rejected during probationary period from his former class, or a class with substantially the same or higher level of duties, responsibilities and salary; or (c) rejected during probationary period from a lower class under the same appointing power; or (d) demoted from a managerial position pursuant to Section 19590; shall be reinstated to his former position provided:

(1) He vacated a civil service position to accept another civil

service position; and

(2) He accepted the appointment without a break in the continuity of state service; and

(3) The reinstatement is requested in the manner provided by board rule within 10 working days after the effective date of such termination.

SEC. 2.5. Section 19570 of the Government Code is amended to read:

19570. As used in this article "adverse action" means dismissal, demotion, suspension, or other disciplinary action. This article shall not apply to any demotion subject to Article 4 (commencing with Section 19590).

SEC. 3. Article 4 (commencing with Section 19590) is added to Chapter 8 of Part 2 of Division 5 of Title 2 of the Government Code, to read:

Article 4. Tenure of Managerial Employees

19590. Notwithstanding the provisions of Article 3 (commencing with Section 19570), persons designated as managerial employees under Section 3513, but whose positions are not in the career executive category shall, as requested by the appointing power and approved by the board, hold their appointments subject to the following adverse action process:

(a) The employee may be demoted from a managerial position under the provisions of this section for any of the causes specified in Section 19572, but shall not be demoted for any cause constituting prohibited discrimination as set forth in Sections 19700 to 19703, inclusive.

(b) At least 20 days prior to the effective date of the demotion, the appointing power shall give the employee written notice of the proposed action setting forth the reasons for the action, the effective date of the action, the right of the employee to answer the notice orally or in writing within 10 days of receipt of notice, and the employee's appeal rights. Within 15 days after the effective date of the demotion, a copy thereof shall be filed with the board.

(c) The board, at the written request of a demoted managerial employee filed within 30 days of the employees receipt of the demotion notice, may investigate with or without a hearing the reasons for demotion. After this investigation, the board shall do either of the following:

(1) Affirm or reduce the action of the appointing power.

(2) Restore the employee to the position from which the employee was demoted. This restoration shall be done only if the board determines, after hearing, that there is no substantial evidence to support the reason or reasons for demotion, or that the demotion was made in fraud or bad faith. At the hearing the terminated managerial employee shall have the burden of proof. Subject to rebuttal by the employee, it shall be presumed that the demotion was

free from fraud and bad faith and that the statement of reasons in the notice of demotion is true.

19591. Any employee demoted pursuant to Section 19590 shall, as specified by Section 19140.5, have the right to be reinstated to his or her former civil service position.

19592. Except as provided in this article, adverse actions against managerial employees shall be subject to the provisions in Article 3 (commencing with Section 19570).

19593. This article shall not apply to tenure in managerial appointments that took effect prior to January 1, 1983, or in subsequent appointments, except that it shall apply when the provisions of this part and board rule would have required the employee to serve a new probationary period in a subsequent appointment. Where service of a new probationary period would have been discretionary on the part of the appointing power, the appointing power may either apply the provisions of this article to the new appointment, or require the employee to serve the probationary period previously prescribed for the class by the State Personnel Board, or appoint the employee with no new probationary period.

SEC. 4. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 986

An act to add Chapter 6 (commencing with Section 37700) to Part 22 of the Education Code, relating to schools.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Chapter 6 (commencing with Section 37700) is added to Part 22 of the Education Code, to read:

CHAPTER 6. FOUR-DAY SCHOOL WEEK

37700. (a) The following school districts may, independently, operate experimental programs pursuant to this chapter:

(1) The Potter Valley Community Unified School District.

(2) The French Gulch-Whiskeytown Union Elementary School District.

(b) Notwithstanding Sections 37620 and 41420, the district may, during the 1983–84, 1984–85, and 1985–86 school years, conduct an

experimental program for the operation of the schools in the district on a four-day school week, so long as the district complies with the requirements of this chapter.

37701. The district shall provide on an annual basis, while operating under the experimental program, not less than 560 hours of instructional time for kindergarten, not less than 700 hours of instructional time for grades 1, 2, and 3, and not less than 845 hours of instructional time for grades 4 to 12, inclusive. The district may exceed these minimum instructional times except that no pupil in a kindergarten shall be kept in school more than four hours in any day, exclusive of recesses. In no event shall the school day exceed eight hours, nor shall the school week be less than four days. The Legislature recognizes that these minimum amounts of instructional times for grades 1 to 12, inclusive, exceed the weekly minimum instructional time required by state law during the 1981–82 school year.

37702. Prior to conducting the experimental program, the district shall secure the approval of the governing board of the district and of any collective bargaining agents representing employees of the district.

37703. Any school site councils in the district shall be involved in the planning and evaluation of the experimental program.

37704. The district shall consider the impact of the longer schoolday on primary grade pupils, and the impact of the four-day school week on working parents who may be required to find child care services for their school age children due to the shortened school week.

37705. The district shall report annually to the Legislature and to the State Department of Education regarding the following:

(a) The impact of the experimental program on pupil achievement.

(b) The impact of the experimental program on district operating costs.

(c) The reactions of parents, pupils, and staff to the experimental program.

37705.5. From funds available to the department, the State Department of Education shall, within six months after the termination of the experimental program authorized by this chapter, submit to the Legislature an evaluation of the experimental program. The evaluation shall include comparisons between the district and a unified district, elementary school district, or high school district, depending on the type of district participating in the experimental program, of a similar geographic and socioeconomic composition, relating to student achievement, district operating costs, and other data deemed relevant by the department. The evaluation shall also include a report on the evaluations of the experimental program by the parents and staff of the district. The department shall utilize, to the extent possible, data ordinarily available to the department. The districts participating in this

evaluation shall provide other data required by the department for the purposes of the evaluation.

37706. If the district elects to conduct an experimental program as authorized by this chapter, the district shall be entitled to receive the same support, but not more support, from the State School Fund due to the average daily attendance at the schools within the district that it would have received if the district had been operating under the provisions of law relating to the 175-day school year.

37707. If the district elects to conduct an experimental program pursuant to this chapter, the reduced number of schooldays in the district shall not affect any rights of certificated or classified employees of the district with regard to classification, tenure, or notice, and shall not otherwise affect the contract rights of the employees.

SEC. 2. Due to the unique circumstances regarding scarcity of funds for schools in the Potter Valley Community Unified School District and the French Gulch-Whiskeytown Union Elementary School District, the Legislature hereby finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 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 987

An act to amend Sections 4464, 4475.5, and 4491 of, and to add Sections 4464.5 and 4480 to, the Public Resources Code, relating to forestry, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 4464 of the Public Resources Code is amended to read:

4464. Unless the context clearly requires otherwise, the following definitions govern the construction of this chapter:

(a) "Wildland" means any land that is classified as a state responsibility area pursuant to Article 3 (commencing with Section 4125) of Chapter 1 of this part and includes any such land having a plant cover consisting principally of grasses, forbs, or shrubs that are valuable for forage. "Wildland" also means any lands that are

contiguous to lands classified as a state responsibility area if wildland fuel accumulation is such that a wildland fire occurring on these lands would pose a threat to the adjacent state responsibility area.

(b) "Wildland fuel" means any timber, brush, grass, or other flammable vegetation, living or dead, standing or down.

(c) "Wildland fire" means any uncontrolled fire burning on wildland.

(d) "Prescribed burning" or "prescribed burning operation" means the planned application and confinement of fire to wildland fuels on wildland selected in advance of such application to achieve any specific objective and any necessary follow-up activities, such as revegetation and erosion control measures.

(e) "Prescribed burn crew" means personnel and firefighting equipment of the department that are prepared to contain fire set in a prescribed burning operation and to suppress any fire that escapes during a prescribed burning operation.

(f) "Person" means any natural person, firm, association, partnership, business trust, corporation, company, or combination thereof, or any public agency other than an agency of the federal government.

SEC. 2. Section 4464.5 is added to the Public Resources Code, to read:

4464.5. The Legislature finds that, due to the absence of significant forest resources, lands in the Sutter Buttes in the County of Sutter are not likely to become eligible for classification as a state responsibility area under existing statutory criteria, but that those lands possess all other characteristics set forth in Section 4475, and substantial public benefits can be derived from prescribed burning operations on those lands. Accordingly, notwithstanding subdivision (a) of Section 4464, lands in the Sutter Buttes that have substantial accumulations of wildland fuel, the burning of which in a prescribed burning operation will achieve a combination of the purposes set forth in Section 4475, other than forest improvement, shall be deemed "wildland" for the purposes of Article 2 (commencing with Section 4475).

SEC. 3. Section 4475.5 of the Public Resources Code is amended to read:

4475.5. (a) The state may assume a proportionate share of the costs of site preparation and prescribed burning conducted pursuant to this article on wildlands other than wildlands under the jurisdiction of the federal government. The state's share of such costs shall bear the same ratio to the total costs of the operation as the public benefits bear to all public and private benefits to be derived from the prescribed burning operation, as estimated and determined by the director. In no event may the state's share of such costs exceed 90 percent of the total costs of the operation.

(b) The board shall adopt regulations establishing standards to be used by the director in determining the state's share of such costs and in determining whether, pursuant to Section 4475, the public

benefits of a prescribed burning operation will equal or exceed the foreseeable damage therefrom.

(c) The determination of public and private benefits pursuant to this section shall reflect any substantial benefit to be derived from accomplishing any of the purposes specified in Section 4475 and the prevention of degradation of air quality.

(d) All or part of such costs to be borne by the person contracting with the department may be met by the value of materials, services, or equipment furnished by that person directly, or furnished by that person pursuant to an agreement with a private consultant or contractor, or furnished by a combination of both means, that are determined by the department to be suitable for the preparation for, and the conduct of, the prescribed burning operation.

SEC. 4. Section 4480 is added to the Public Resources Code, to read:

4480. In any area of the state where there are substantially more requests for prescribed burning operations pursuant to this article than can be conducted directly by the department in a single fiscal year, the director may, with the approval of the Director of Finance, enter into an agreement with private consultants or contractors or with other public agencies for furnishing all or a part of the state's share of the responsibility for planning the operation, preparing the site, and conducting the prescribed burning. The private consultant or contractor or other public agency, and the work assignments of its employees, shall be supervised by the fire boss, as provided in subdivision (c) of Section 4476. No agreement may be entered into pursuant to this section unless the director determines that it will enable the prescribed burning operation to be conducted at a cost equal to, or less than, the cost that would otherwise be incurred by the state.

SEC. 5. Section 4491 of the Public Resources Code is amended to read:

4491. Cooperation by the department, as provided in this article, with any person desiring to use prescribed burning as a means of converting brush-covered lands into forage lands, which has as its objective prevention of high intensity wildland fires, watershed management, range improvement, vegetation management, forest improvement, wildlife habitat improvement, and maintenance of air quality, or any combination thereof, is declared to be for a public purpose.

This article shall be administered by the director or, if responsibility therefor is delegated by the director, by the chief of a county fire department in a county contracting with the department pursuant to the provisions of Section 4129.

In furtherance of the provisions of this article, the department shall provide advisory service to applicants for permits as to precautions to be taken by the applicant to prevent damage to the property of others by reason of the prescribed burning, and shall provide standby fire protection, to such extent as personnel, fire

crews, and firefighting equipment are available.

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 this act may be applicable to the 1982 prescribed burning season, it is necessary that this act take effect immediately.

CHAPTER 988

An act making an appropriation to pay the claims of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. The sum of two hundred twenty-nine thousand two hundred ninety-three dollars and ninety cents ($229,293.90) is hereby appropriated from the funds indicated to the State Board of Control to pay the claims of the Secretary of the State Board of Control:

General Fund	$84,935.19
Fish and Game Preservation Fund	175.00
Special Deposit Fund, Stallion Award Account	7,866.00
Transportation Fund, Motor Vehicle Account	90.00
Transportation Fund, Motor Vehicle Account (CHP)	87.00
Transportation Fund, State Highway Account	277.35
Transportation Fund, Transportation Revolving Account	69.04
Unemployment Compensation Disability Insurance Fund	1,453.43
Item 0820-001-001(G), Budget Act of 1982	864.51
Item 0840-001-001(A), Budget Act of 1982	35,448.38
Item 0860-001-001(A), Budget Act of 1982	393.00
Item 1240-022-738, Budget Act of 1982	1,466.16
Item 1655-090-702(A), Budget Act of 1982	719.52
Item 1700-001-001(B), Budget Act of 1982	167.68
Item 1730-001-001(A), Budget Act of 1982	585.85
Item 1760-001-666(A), Budget Act of 1982	1,775.20
Item 1900-001-830(D), Budget Act of 1982	848.73
Item 1960-001-001(A), Budget Act of 1982	9,928.44
Item 2240-001-001(D), Budget Act of 1982	5,887.26
Item 2290-001-001(C), Budget Act of 1982	466.24

Item 2660-001-042(A), Budget Act of 1982	16,499.29
Item 2740-001-044(D), Budget Act of 1982	4,258.86
Item 3540-001-001(D), Budget Act of 1982	624.73
Item 3560-001-001(A), Budget Act of 1982	3,452.00
Item 3860-001-001(E), Budget Act of 1982	898.33
Item 4200-001-001(C), Budget Act of 1982	90.70
Item 4260-001-001(K), Budget Act of 1982	1,731.46
Item 4300-011-001(A), Budget Act of 1982	12,448.09
Item 4440-001-001(C), Budget Act of 1982	1,605.37
Item 4440-101-001(E), Budget Act of 1982	1,371.26
Item 5100-001-870(C), Budget Act of 1982	4,210.69
Item 5180-001-001(F), Budget Act of 1982	5,366.57
Item 5240-001-001(A), Budget Act of 1982	13,919.55
Item 5240-001-001(C), Budget Act of 1982	3,989.51
Item 5460-001-001(B), Budget Act of 1982	368.83
Item 6100-001-001(D), Budget Act of 1982	266.98
Item 6610-001-001(A), Budget Act of 1982	3,478.00
Item 8350-001-001(A), Budget Act of 1982	73.91
Item 8350-001-001(H), Budget Act of 1982	743.15
Item 8560-001-001(A), Budget Act of 1982	392.64
Total.....	$229,293.90

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 settle claims against the state and ending a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 989

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. The sum of one hundred ninety thousand three hundred twenty-eight dollars and ninety-eight cents ($190,328.98) is hereby appropriated from the General Fund to the State Board of Control to pay the claims of the Secretary of the State Board of Control.

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 settle claims against the state and ending a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 990

An act to amend Section 232.3 of, and to add Section 230.6 to, the Civil Code, and to amend Section 11400 of the Welfare and Institutions Code, relating to children.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 230.6 is added to the Civil Code, to read:

230.6. Notwithstanding any other provision of law, if an adult adoptee, his or her natural parent, and any living adoptive parent have each filed a written waiver of his or her rights with respect to the confidentiality of adoption records with the State Department of Social Services or any licensed adoption agency, the department or the licensed agency may arrange for contact among those persons. Neither the department nor a licensed adoption agency shall solicit, directly or indirectly, the execution of such a waiver.

The waiver authorized by this section shall be in the form that shall be prescribed by the State Department of Social Services.

SEC. 2. Section 232.3 of the Civil Code is amended to read:

232.3. (a) It is the public policy of this state that judicial proceedings to declare a child free from parental custody and control shall be fully determined as expeditiously as possible.

(b) Notwithstanding any other provision of law, an action to declare a child free from parental custody and control pursuant to Section 232 shall be set for trial not more than 45 days after filing notification therefor and completion of service thereon in the manner prescribed by law for service of civil process.

The matter so set shall have precedence over all other civil matters on the date set for trial. The court may continue the proceeding as provided in subdivision (d) of Section 237.5.

(c) In order to obtain a motion for a continuance of the hearing, written notice shall be filed within two court days of the date set for the hearing, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, unless the court for good cause entertains an oral motion for continuance. Continuances shall be granted only upon a showing of good cause. Neither a stipulation between counsel nor the convenience of the parties is in

and of itself a good cause.

A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the facts proven which require the continuance shall be entered upon the minutes of the court.

SEC. 3. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Exclusive-use home" means a family residence certified by a licensed homefinding agency and issued a certificate of approval by that agency as meeting licensing standards, and used exclusively by that homefinding agency for placements.

(c) "Family home" means the family residence of a licensee in which 24-hour care and supervision are provided for children.

(d) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(e) "Group home" means a residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

(f) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of such agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 320 or 636, (4) signed a voluntary placement agreement for the child's placement or the responsibility designated to an individual by virtue of his or her being (1) appointed the child's legal guardian, or (2) delegated care, custody or control of the child by the juvenile court on or before June 30, 1982.

(g) "Relative" means a person who can be a "caretaker relative" of a dependent child under the provisions of Section 406 of the Social Security Act.

(h) "Voluntary placement" means an out-of-home placement of a minor by (1) the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county

welfare department, the licensed public or private agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(i) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

SEC. 3.1. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Exclusive-use home" means a family residence certified by a licensed homefinding agency and issued a certificate of approval by that agency as meeting licensing standards, and used exclusively by that homefinding agency for placements.

(d) "Family home" means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(f) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by subdivision (a) (1) of Section 1502 of the Health and Safety Code.

(g) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(h) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(i) "Placement and care" refers to the responsibility for the

welfare of a child vested in an agency or organization by virtue of such agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 320 or 636, (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being (1) appointed the child's legal guardian, or (2) delegated care, custody and control of the child by the juvenile court on or before June 30, 1982.

(j) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(k) "Relative" means a person who can be a "caretaker relative" of a dependent child under the provisions of Section 406 of the Social Security Act.

(*l*) "Voluntary placement" means an out-of-home placement of a minor by (1) county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(m) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

SEC. 3.2. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Foster Care Support Program" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Exclusive-use home" means a family residence certified by a licensed homefinding agency and issued a certificate of approval by that agency as meeting licensing standards, and used exclusively by that homefinding agency for placements.

(c) "Family home" means the family residence of a licensee in which 24-hour care and supervision are provided for children.

(d) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(e) "Group home" means a residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by subdivision (a) (1) of Section 1502 of the Health and Safety Code.

(f) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of such agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 320 or 636, (4) signed a voluntary placement agreement for the child's placement or the responsibility designated to an individual by virtue of his or her being (1) appointed the child's legal guardian, or (2) delegated care, custody or control of the child by the juvenile court on or before June 30, 1982.

(g) "Relative" means a person who can be a "caretaker relative" of a dependent child under the provisions of Section 406 of the Social Security Act.

(h) "Voluntary placement" means an out-of-home placement of a minor by (1) county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(i) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

SEC. 3.3. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Foster Care Support Program" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Exclusive-use home" means a family residence certified by a licensed homefinding agency and issued a certificate of approval by that agency as meeting licensing standards, and used exclusively by that homefinding agency for placements.

(d) "Family home" means the family residence of a licensee in which 24-hour care and supervision are provided for children.

(e) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(f) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by subdivision (a) (1) of Section 1502 of the Health and Safety Code.

(g) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(h) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(i) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of such agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 320 or 636, (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being (1) appointed the child's legal guardian, or (2) delegated care, custody and control of the child by the juvenile court on or before June 30, 1982.

(j) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(k) "Relative" means a person who can be a "caretaker relative" of a dependent child under the provisions of Section 406 of the Social Security Act.

(*l*) "Voluntary placement" means an out-of-home placement of a minor by (1) county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency,

after the parents have requested the assistance of either the county welfare department, the licensed public or private agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(m) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

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. It is the intent of the Legislature that if this bill and Assembly Bill 2695 or Assembly Bill 3424, or both, are chaptered and become effective on or before January 1, 1983, each of the bills amend Section 11400 of the Welfare and Institutions Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill 2695 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 11400 of the Welfare and Institutions Code, but Assembly Bill 3424 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 2695, that Section 11400 of the Welfare and Institutions Code as amended by Section 7 of Assembly Bill 2695 be further amended on the effective date of this act in the form set forth in Section 3.1 of this act to incorporate the changes in Section 11400 proposed by this bill. Therefore, if this bill and Assembly Bill 2695 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill 2695 is chaptered before this bill and amends Section 11400, and Assembly Bill 3424 is not chaptered or as chaptered does not amend that section, Section 3.1 shall become operative on the effective date of this act and Sections 3, 3.2, and 3.3 of this act shall not become operative.

(2) If this bill and Assembly Bill 3424 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 11400 of the Welfare and Institutions Code, but Assembly Bill 2695 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 3424, that the amendments to Section 11400 proposed by this bill and 3424 be given effect and incorporated in Section 11400 in the form set forth in Section 3.2 of this act. Therefore, if this bill and Assembly Bill 3424 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill 3424 is chaptered before this bill and amends Section 11400, and Assembly Bill 2695 is not chaptered or as

chaptered does not amend that section, Section 3.2 of this act shall become operative on the effective date of this act and Sections 3, 3.1, and 3.3 of this act shall not become operative.

(3) If this bill and Assembly Bill 2695 and Assembly Bill 3424 are all chaptered and become effective on or before January 1, 1983, all three bills amend Section 11400 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 2695 and Assembly Bill 3424, that Section 11400 of the Welfare and Institutions Code as amended by Section 7 of Assembly Bill 2695 be further amended on the effective date of this act in the form set forth in Section 3.3 of this act to incorporate the changes in Section 11400 proposed by this bill and Assembly Bill 3424. Therefore, if this bill, Assembly Bills 2695 and 3424 are all chaptered and become effective on or before January 1, 1983, and Assembly Bills 2695, and 3424 are chaptered before this bill and amend Section 11400, Section 3.3 of this act shall become operative on the effective date of this act and Assembly Bill 3424 and Sections 3, 3.1, and 3.2 shall not become operative.

CHAPTER 991

An act to add Sections 31652.1, 31652.2, and 31831.2 to, the Government Code, relating to the County Employees Retirement Plan of 1937.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 31652.1 is added to the Government Code, to read:

31652.1. (a) Any member may redeposit in the retirement fund, prior to filing an application for retirement, by lump-sum payment or by installment payments over a period of one year or for a longer time upon approval of the board, an amount equal to all of the accumulated normal contributions which he has withdrawn, plus regular interest thereon from the date of separation from the retirement system, and his membership is the same as if unbroken by such termination. Except as provided in this section his rate of contribution shall be based on age at the nearest birthday at time of reentrance into the system. If he does not redeposit all of the accumulated normal contributions previously withdrawn he shall be considered as a new member without credit for any previous service.

"Regular interest" as used in this section shall mean that amount of interest which would have been credited to the account of the member on the amount to be deposited at the interest rates established for the system if the contributions required by this section had been on deposit from the date of separation from the

retirement system until the amount required to be deposited has been paid.

(b) Any member who left county service on or before December 31, 1974, and thereafter again became a member of the county system which he left and (1) who did not withdraw his accumulated normal contributions, or (2) who elected to leave his accumulated normal contributions on deposit pursuant to Article 9 (commencing with Section 31700), or (3) who redeposited or redeposits withdrawn accumulated normal contributions plus interest as authorized in this section, shall be eligible for all benefits granted a member entering a reciprocal retirement system under Article 15 (commencing with Section 31830), including the benefits granted to members who left their accumulated contributions on deposit or who redeposited their accumulated contributions pursuant to Section 31831.1. This paragraph shall not be applicable to any member entering service after December 31, 1979.

(c) Any member who left county service on or after January 1, 1975, and who within 90 days thereafter again became a member of the county system which he left and (1) who did not withdraw his accumulated normal contributions, or (2) who elected to leave his accumulated normal contributions on deposit pursuant to Article 9 (commencing with Section 31700), or (3) who redeposits or redeposited his withdrawn accumulated normal contributions plus interest as authorized by Section 31652 within 180 days after leaving county service, shall be eligible for all benefits granted a member entering a reciprocal retirement system under Article 15 (commencing with Section 31830), except that Section 31831.1 shall not apply to such members.

(d) This section shall not apply to members who are retired or who are not in service of an employer making him a member of this system.

(e) This section shall apply only in a county of the first class, as established by Sections 28020 and 28022 but shall not be operative in a county until adopted by resolution of the board of supervisors.

SEC. 2. Section 31652.2 is added to the Government Code, to read:

31652.2. (a) Any member of a retirement system established pursuant to this chapter who was previously a member of the same county retirement system and who thereafter became a member of the Public Employees' Retirement System as a result of employment by a public agency contracting with the Public Employees' Retirement System, shall receive credit in the county retirement system for service rendered as an officer or employee of such public agency, provided that he or she makes the contributions specified by Section 31641.2, and provided further that he or she is not entitled to receive any other pension or retirement allowance from any public agency for such service.

(b) Notwithstanding any other provision of law, any person who would otherwise qualify under subdivision (a) who elected to leave

his or her contributions on deposit with the Public Employees' Retirement System and receive the benefits of reciprocity, may rescind that election and withdraw his or her contributions plus accrued interest from the Public Employees' Retirement System and deposit the same in the county retirement system of which he or she is a member as payment in full or in part for the service credit described in this section. The person shall not thereafter have the right to redeposit the withdrawn contributions in the Public Employees' Retirement System or to receive any credit for such service in that system. Any member of a county retirement system who is eligible to receive credit for other public service pursuant to this section shall receive the benefit of any motion or resolution adopted by the board of supervisors pursuant to subdivision (c) of Section 31641.2 which was in effect during the member's county service.

(c) This section shall apply only in a county of the first class, as established by Sections 28020 and 28022, but shall not be operative in a county until adopted by resolution of the board of supervisors.

SEC. 3. Section 31831.2 is added to the Government Code, to read:

31831.2. Any member who left county or district service on or before December 31, 1974, and became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System, who did not elect to, or was not eligible to, leave his contributions on deposit pursuant to Article 9 (commencing with Section 31700) may now elect to leave his accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700) by redepositing in the retirement fund of the county or district he left the amount of accumulated contributions and interest he withdrew from such retirement fund plus regular interest thereon from date of separation.

Any such member whose accumulated contributions are on deposit as provided in this section and any other member who left county or district service on or before December 31, 1974, who became a member of a retirement system established under this chapter in another county or of the Public Employees' Retirement System and who elected to leave his accumulated contributions on deposit pursuant to Article 9 (commencing with Section 31700) shall be eligible for the benefits provided in this article, and for purposes of such benefits shall be deemed to have entered membership in such other system within 90 days of his separation from county or district employment. The deferred retirement allowance for such member shall be determined in accordance with the provisions of this chapter applicable to members retiring directly from county employment on the date of his retirement. Any member who qualifies for a reduced age at entry pursuant to this section shall be entitled to use such age only from and after the date he completes the redeposit as provided in this section or, if he elected to leave his accumulated contributions on deposit pursuant to Article 9

(commencing with Section 31700), from and after the date he notifies the board in writing that he desires the benefits of this section. This section shall not apply to members who are retired or who are not in service of an employer making him a member of a retirement system established under this chapter or of the Public Employees' Retirement System.

Unless this chapter expressly provides to the contrary the retirement allowance received by a member pursuant to this section shall be calculated based upon the laws pertaining to the retirement system of such district or county as of the date of retirement and not the laws pertaining to such system as of the date the member first left county or district service.

This section shall not be applicable to any member entering service after December 31, 1979.

This section shall apply only in a county of the first class, as established by Sections 28020 and 28022 but shall not be operative in a county until adopted by resolution of the board of supervisors.

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 992

An act to amend Sections 2, 2.5, 4, 5, 6, 12, 13, 16, 17.1, 19, 20, 29, 31, 31.5, 36, 37, 38.1, and 42 of, and to add Sections 2.1, 6.5, and 45 to, the Orange County Water District Act (Chapter 924 of the Statutes of 1933), relating to the Orange County Water District.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 2 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 2. The "Orange County Water District" shall have power:

1. To have perpetual succession;

2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals;

3. To adopt a seal and alter it at pleasure;

4. To take by grant, purchase, gift, devise, or lease, to hold, use and enjoy, and to lease, convey or dispose of, real and personal property of every kind, within or without the district, necessary or convenient to the full exercise of its powers;

5. Within or outside of the district to construct, purchase, lease, or otherwise acquire, and to operate and maintain necessary waterworks and other works, machinery, facilities, canals, conduits, waters, water rights, spreading grounds, lands, rights and privileges useful or necessary to replenish the underground water basin within said district, or to augment and protect the quality of the common water supplies of said district, and purposes incidental thereto;

6. For the common benefit of the district and for the purpose of managing the groundwater basin and managing, replenishing, regulating and protecting the groundwater supplies within the district to:

(a) Provide for the conjunctive use of groundwater and surface water resources within the district area;

(b) Store water in underground water basins or reservoirs within or outside of said district;

(c) Regulate and control the storage of water and the use of groundwater basin storage space in the groundwater basin within the district and pursuant to the provisions set forth in Section 2.1 to (1) determine the amount of storage space available in the groundwater basin within the district, (2) allocate that available groundwater storage space, and (3) enter into groundwater storage agreements, provided that the district shall have no authority under the provisions of this section, except the provisions of paragraph (*l*) of this subdivision, to limit the extraction of groundwater within the district, except to the extent that a party may agree thereto under any such groundwater storage or other agreement;

(d) Appropriate and acquire water and water rights within or outside of the district;

(e) Purchase and import water into the district;

(f) Conserve and reclaim water within or outside of the district;

(g) Buy and to sell water at such rates as shall be determined by the board of directors;

(h) Exchange water;

(i) Distribute water to persons in exchange for ceasing or reducing groundwater extractions;

(j) Transport, reclaim, purify, treat, inject, extract, or otherwise manage and control water for the beneficial use of persons or property within the district and to improve and protect the quality of the groundwater supplies within the district; and

(k) Fix the terms and conditions of any contract under which owners or operators of water-producing facilities within the district may agree to use water from an alternative nontributary source in lieu of groundwater, and to such end the district may become a party to such a contract and may pay from district funds such portion of the cost of water from an alternate source as will encourage the purchase and use of the same in lieu of producing groundwater, as long as persons or property within the district are directly or indirectly benefited by the resulting replenishment;

(*l*) Determine in the manner herein provided the amount and

percentage of water produced from the groundwater supplies within the district to the total amount of water produced within district by all persons and operators, including the total amount of water from supplemental sources; require that persons and operators produce more or less of their total water needs from the groundwater within district than the basin production percentage determined by district as provided herein; levy a basin equity assessment on those persons and operators who are required by district to produce, or have in fact produced, more water from the groundwater within district; and to compensate other such persons and operators who are directed by district to produce less than the basin production percentage from groundwater within district;

7. To provide for the protection and enhancement of the environment within and outside such district in connection with the water activities of such district;

8. To provide, by agreement with other public agencies or private persons or entities or otherwise, for the recreational use of the lands, facilities, and works of such district which shall not interfere, or be inconsistent, with the primary use and purpose of such lands, facilities, and works by such district;

9. To carry out the purposes of this act, to commence, maintain, intervene in, defend and compromise, in the name of said district, or otherwise, and to assume the costs and expenses of any and all actions and proceedings now or hereafter begun to prevent interference with water or water rights used or useful to lands within said district, or diminution of the quantity or pollution or contamination of the water supply of said district, or to prevent unlawful exportation of water from said district, or to prevent any interference with the water or water rights used or useful in said district which may endanger or damage the inhabitants, lands or use of water in said district; provided, however, that said district shall not have power to intervene or take part in, or to pay costs or expenses of actions or controversies between the owners of lands or water rights all of which are entirely within the boundaries of said district and which do not involve pollution or contamination of water within said district or exporting water outside of said district's boundaries or any threat thereof;

10. To exercise the right of eminent domain to take any property necessary to the exercise of any of the powers granted by this act, except that said district shall not have the right of eminent domain as to water, water rights, reservoirs, pipelines, water distributing systems, waterworks, or powerplants, all or any of which are already devoted to beneficial or public use and located within the watershed of the Santa Ana River, and excepting further from the exercise of the right of eminent domain by said district any property maintained and actually used for the scientific propagation and study of plantlife. No language or provision of this act, or of this subdivision, shall be interpreted or construed so as to limit or abridge the right of said district; or its board of directors, to exercise its right of eminent

domain to condemn property at any place within the Santa Ana River watershed for rights-of-ways upon and across and under which to construct pipelines, conduits, tunnels and/or aqueducts necessary or convenient for any of the purposes of said district provided the property sought to be condemned for said purposes is not already being used by other corporations, municipalities, districts or individuals for similar purposes; providing, however, that neither said district nor its board of directors shall have power to enter in or upon the Mojave River or any of its tributaries or appropriate, take or condemn any of the water or the right to the use of any of the water of said Mojave River or any of its tributaries; nor shall anything in this act be deemed as authorizing or empowering said district or its board of directors to so do;

11. The district shall, in addition to the other powers herein granted by this act, have the following rights and powers: to act jointly with or cooperate with the United States or any agency thereof, the State of California or any agency thereof, any county of the State of California, districts of any kind, public and private corporations, and any person or persons, to carry out the provisions and purposes of this act; in such joint or cooperative activities, said district may act within or outside of its boundaries;

12. To cause assessments and/or charges to be levied as hereinafter provided to accomplish the purposes of this act;

13. To make contracts, to employ labor and to do all acts necessary for the full exercise of the foregoing powers;

14. To carry on technical and other investigations of all kinds, necessary to carry out the provisions of this act, and for this purpose said district shall have the right of access through its authorized representative to all properties within said district.

SEC. 2. Section 2.1 is added to the Orange County Water District Act (Chapter 924 of the Statutes of 1933), to read:

Sec. 2.1. (a) All groundwater storage by an entity other than the district shall be conducted pursuant to a groundwater storage agreement between that entity and the district.

(b) Use of the groundwater basin within the district for the purpose of replenishing and managing the groundwater supplies of the district shall have priority over the use of the groundwater basin for storage of water.

(c) The groundwater storage agreement shall be limited to public and private entities distributing water to consumers for domestic, municipal, industrial, and agricultural use within their boundaries, which are located wholly or partially within the district, except that, where the primary benefits accrue to persons or property within the district, the agreement may include other public and private entities, including, but not limited to, the Metropolitan Water District of Southern California and the Department of Water Resources of the State of California.

(d) In allocating the use of the groundwater basin storage space the district shall consider and protect the quality of the groundwater

and the reasonable water supply needs of the district. The district shall impose such limitations on the quality of the water to be stored as shall be necessary to protect the quality of the groundwater in the district.

(e) The district shall include written findings supporting its conclusions in its record of consideration of a proposed groundwater storage agreement.

SEC. 3. Section 2.5 of the Orange Conty Water District Act (Chapter 924 of the Statutes of 1933), is amended to read:

Sec. 2.5. The district, by a four-fifths vote of the board of directors, may issue negotiable promissory notes to acquire funds for any district purpose. Such promissory notes shall bear interest at a rate not to exceed the maximum interest rate provided for in Section 53531 of the Government Code. The maturity of such promissory notes shall not be later than five years from the date thereof. They shall be payable from revenues and taxes levied for purposes of the district other than the payment of principal and interest on any bonded debt of the district. The total aggregate amount of such notes outstanding at any one time shall not exceed the lesser of either five million dollars ($5,000,000) or 3 percent of the assessed valuation of the taxable property in the district.

SEC. 4. Section 4 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 4. The government of the district shall be vested in the board of directors to consist of 10 members to be elected or appointed as hereinafter provided; a president, a first vice president, and a second vice president to be appointed from the 10 members of the board of directors and hold office at the pleasure of the board of directors.

The board of directors shall appoint, by a majority vote, a secretary manager, an assistant secretary, assessor, tax collector, treasurer, and auditor, and shall define their duties and fix their compensation. Each of these officers shall serve at the pleasure of the board. If the board so chooses, it may appoint the county treasurer, county assessor, county tax collector, or county auditor of the County of Orange and their successors in office, which county officers and all their deputies, assistants, clerks, and employees shall perform the same respective duties of the office of assessor, tax collector, treasurer, and auditor for the district as they perform for Orange County, without additional compensation being paid by the district, in order to carry out the provisions of this act.

The board of directors may appoint and employ an attorney or attorneys, and an engineer or engineers for the district and such other officers and employees for the district as in their judgment may be deemed necessary, and prescribe their duties and powers and compensation, which officers and employees shall hold office or be employed during the pleasure of the board of directors.

SEC. 5. Section 5 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 5. The president shall sign all contracts on behalf of the

district, and perform such other duties as may be imposed on him by the board of directors or by this act. In the absence of or inability of the president to serve, the first vice president shall perform his duties. In the absence of or inability of both the president and the first vice president to serve, the second vice president shall perform the duties of said president.

The secretary manager or assistant secretary shall countersign all contracts on behalf of the district and perform such other duties as may be imposed on him by the board of directors or by this act.

The treasurer shall be responsible for the deposit and withdrawal of funds of the district. In the event the board of directors appoints a treasurer other than the county treasurer as provided in Section 4, the district shall file a certified copy of the resolution so appointing the treasurer with the county treasurer. The county treasurer shall thereupon deliver to the district all funds of the district on deposit with the county treasurer. Such funds shall thereafter be deposited by the district in a bank or banks approved for deposit of public funds.

The board of directors may by resolution adopt reasonable rules and regulations not inconsistent with this act for the administration and government of the affairs of said district, and alter them from time to time as conditions may require; they may also appoint appropriate officers or agents to represent them as directed in administering the affairs of the district, which officers or agents shall receive the compensation established by the board from time to time, and serve at the pleasure of the board. Said board may require any of said officers or agents to furnish bond in the form and amount fixed by it.

SEC. 6. Section 6 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 6. A majority of the members of the board shall constitute a quorum for the transaction of business. The board of directors shall act only by resolution or motion. Resolutions and motions may be adopted by a voice vote, but on demand of any member the roll shall be called. No motion or resolution shall be passed or become effective without the affirmative vote of a majority of the members of the board. Any hearings or meetings held by the district or its board of directors as required by this act or in carrying out the provisions of this act may be continued or adjourned from time to time.

SEC. 7. Section 6.5 is added to the Orange County Water District Act (Chapter 924 of the Statutes of 1933), to read:

Sec. 6.5. The board of directors may fix the compensation of its members for their services as directors as follows:

(a) A sum not exceeding one hundred dollars ($100) for each meeting of the board of directors attended.

(b) A sum not exceeding one hundred dollars ($100) for each day, and a sum not exceeding fifty dollars ($50) for each half day, for service rendered as a director, other than attending meetings of the

board of directors, authorized, directed, or approved by the board. Three hours or less, including travel time, shall be deemed one-half day, and time in excess of three hours, including travel time, shall be deemed one day.

(c) No director shall receive in any calendar month a sum in excess of six hundred dollars ($600) for meetings attended or services rendered.

As used in this section, "meeting of the board of directors" shall not include meetings of committees of the board of directors. Attending meetings of committees of the board of directors shall be considered as services rendered as a director.

In addition to compensation for meetings attended and services rendered, and in addition to the limitations of amounts of that compensation provided for in this section, each director shall receive reimbursement for all actual, necessary, and reasonable expenses, including mileage, incurred in the performance of his duties authorized, directed, or approved by the board.

SEC. 8. Section 12 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 12. An election shall be held on the first Tuesday after the first Monday in November of each odd-numbered year, in those divisions of 1 to 7 inclusive, at which directors for the district shall be elected to fill the offices of the directors whose terms of office shall expire at noon on the last Friday in that month, in accordance with the provisions of the Uniform District Election Law.

In Divisions 8, 9 and 10 of the district, the governing body of the city comprising each such division shall appoint the director to represent such division upon the board of directors, to serve at the pleasure of such governing body.

Vacancies occurring in any elective office shall be filled pursuant to Section 1780 of the Government Code. If the vacancy is that of an appointed director, the appointing body shall appoint a successor.

Each director shall execute an official bond in the sum of one thousand dollars ($1,000) which shall be approved by a judge of the Superior Court of the County of Orange, and shall be recorded in the office of the county recorder of such county, and then filed with the secretary manager of the board of directors. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of the county officers.

Premiums for bonds required by this act shall constitute a proper charge against the district.

SEC. 9. Section 13 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 13. At the regular meeting of the board of directors in December following the election, the directors elected at that election, those whose terms have not expired and those appointed, shall meet and organize as a board, elect a president and a first and second vice president, and may appoint a secretary manager and an assistant secretary, who shall each hold office at the pleasure of the

board. Each director appointed or elected shall hold office until his successor is elected, or appointed, and has qualified. The term of office of each elected director is hereby fixed at four years, except as herein otherwise provided or as provided in the Uniform District Election Law. The office of the district shall be established by the board of directors at some proper and convenient place within the County of Orange, but does not have to be established or maintained within the district. After the office is once established, it shall not be changed without giving notice thereof by posting in three public places within the district and by publishing a similar notice pursuant to Section 6066 of the Government Code at least once a week for two weeks in some newspaper of general circulation published in Orange County.

The secretary manager and assistant secretary of the district need not be one of the directors. The salary of the secretary manager and assistant secretary and amount of the bond to be given for the faithful performance of their duties shall be fixed by the board of directors. The bond of the secretary manager and assistant secretary of the district shall be filed in the office of the district.

SEC. 10. Section 16 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 16. The board of directors at their regular monthly meeting of the fourth month following the close of each fiscal year shall render and immediately thereafter cause to be filed with the secretary manager and posted conspicuously in the office of the district a verified statement of the financial condition of the district, showing in detail the receipts and disbursements during the last preceding year, together with the sources of the receipts and purposes of the disbursements. A summary of the statement shall be published pursuant to Section 6066 of the Government Code in some newspaper published in the district, and shall refer to the itemized statement filed and posted in the office of the district for further particulars.

For the purpose of rendering such statement, the district shall designate a certified public accountant who shall make an independent audit of the accounts and other evidences of financial transactions of the district during the preceding year. Such certified public accountant shall have no personal interest directly or indirectly in the financial affairs of the district.

SEC. 11. Section 17.1 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 17.1. "General reserve" means funds allocated from the general fund used to meet cash requirements before the proceeds from taxes are available and to meet emergency expenditures. The amount of the general reserve shall not at any time exceed the sum of 15 percent of the total current annual general and water reserve fund budgets.

"Appropriation for contingencies" means funds allocated from the general fund and the water reserve fund to cover expenditures that

have not been provided for or that have been insufficiently provided for or for unappropriated requirements. The appropriation for contingencies shall not at any time exceed the sum of three million dollars ($3,000,000).

SEC. 12. Section 19 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 19. The general assessment and the assessment for payment of bond principal and interest so levied by the district shall be computed and entered on the assessment roll by the county auditor, and if the board of supervisors fail to levy the general assessment and the assessment for payment of bond principal and interest as provided in the preceding section, then the auditor must do so. Such general assessments and assessments for payment of bond principal and interest shall be collected at the same time and in the same manner as state and county taxes, and when collected, shall be paid into the treasury of Orange County for payment to or the use of the district.

The provisions of the statutes of this State, prescribing the manner of levying, assessing, equalizing and collecting taxes, including the sale of property for delinquency, and the redemption from that 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. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act.

SEC. 13. Section 20 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 20. The following funds are hereby created and established for the district to which the moneys of the district shall be deposited and applied, to wit, the general fund, the replenishment fund, the water reserve fund, the bond fund, the basin equity assessment fund, and various improvement funds. All funds collected and received by the district from the levy of the district's replenishment assessment shall be deposited and applied to the replenishment fund. All funds collected and received by the district from the levy of the district's basin equity assessment shall be deposited and applied to the basin equity assessment fund. All funds collected and received by the district from the levy of the general assessment, other than those derived from the portion thereof in excess of those derived from eight cents ($0.08) for each one hundred dollars ($100), or fraction thereof, of assessable property in the district as provided in Section 17 of this act, shall be deposited and applied to the general fund. All funds collected and received by the district from the levy of assessments for the payment of the principal and interest on the bonded debt of the district shall be deposited and applied to the bond fund. All funds collected and received by the district from the levy of the general assessment derived from that portion thereof in excess of eight cents ($0.08) for each one hundred dollars ($100), or fraction thereof, of assessable property in the district, as provided in Section

17 of this act, shall be deposited and applied to the water reserve fund. All other funds received by the district shall be deposited in the fund designated by the board of directors. The board of directors of said district may, from time to time, upon an affirmative vote of eight (8) of the members of the board, transfer funds in such amounts as they deem advisable from the general fund to the water reserve fund.

SEC. 14. Section 29 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 29. Each operator of a water-producing facility within said district, until such time as said water-producing facility has been permanently abandoned, shall file with said district, on or before the 31st day of January and on or before the 31st day of July of each year, a statement setting forth the total production in acre-feet of water for the preceding six months period (excluding the month in which the statement is due), a general description or number locating each water-producing facility and the method or basis of the computation of such water production. If no water has been produced from said water-producing facility during the preceding six months period, said statement shall be filed as provided for herein setting forth that no water has been produced during said period. Said statement shall be verified by a written declaration that it is made under the penalties of perjury. The replenishment assessment and the additional replenishment assessment are payable to said district on or before the last date on which the water production statements shall be filed and are computed by multiplying the production in acre-feet of water as disclosed in the statement, by the replenishment assessment rate and the additional replenishment assessment rate. At such time as any said water-producing facility has been permanently abandoned, the operator thereof shall give written notice of such abandonment to said district.

If any operator of a water-producing facility shall fail to pay the replenishment assessments when due, the district shall charge interest on the delinquent amount of the replenishment assessments at the rate of 1 percent each month or fraction thereof that the replenishment assessments remain delinquent.

Should any operator of a water-producing facility fail to register each water-producing facility or fail to file on or before the 31st day of January and the 31st day of July of each year the water production statement, said district shall in addition to charging interest as provided herein assess a penalty charge against such operator in an amount of 10 percent of the amount found by said district to be due.

The board of directors may, at the time of fixing the replenishment assessment rate and additional replenishment assessment rate, provide by resolution that the operator of any water-producing facilities having a discharge opening not greater than two inches in diameter and which do not provide domestic or irrigation water for an area in excess of one acre may pay a fixed amount as his replenishment assessment and additional replenishment assessment,

in lieu of filing a sworn statement as to the production of groundwater.

SEC. 15. Section 31 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 31. The district shall maintain records in which shall be noted the annual water production from each water producing facility within the district.

The district shall also maintain records in which shall be entered each district assessment levy and charge, a general description of the property upon which each water producing facility is located and any identifying number or code which may be assigned to such facility.

SEC. 16. Section 31.5 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 31.5. Basin equity assessments, as well as production requirements and limitations on persons and operators within the district are declared to be in furtherance of district activities in the protection of water supplies for users within the district which are necessary for the public health, welfare and safety of the people of this state. The basin equity assessments, as well as the production requirements and limitations provided for herein, are authorized to be levied upon and applied to all persons and producers within such district for the benefit of all who rely directly or indirectly upon the groundwater supplies of such district.

The proceeds of the basin equity assessments levied and collected shall be used as provided for herein to equalize the cost of water to all persons and operators within the district, and to acquire water to replenish the groundwater supplies of the district.

"Supplemental sources" as used in this act means sources of water outside the watershed of the Santa Ana River, excepting that portion of that watershed on and along Santiago Creek upstream of the downstream toe of the slope of the Villa Park Flood Control Dam, such as but not limited to water produced from the Metropolitan Water District of Southern California.

"Basin production percentage" as used in this act means the ratio that all water to be produced from groundwater supplies within the district bears to all water to be produced by persons and operators within the district from supplemental sources as well as from groundwater within the district during the ensuing water year.

(a) Annually the district shall order an investigation and report to be prepared by an engineer or engineers employed by such district. The investigation and report shall set forth the following information, together with such other information as the district may desire, relating to the preceding water year:

(1) Amount of water produced by persons and operators from groundwater within district;

(2) Amount of water produced by persons and operators from supplemental sources;

(3) Amount of water produced by persons and operators from all

other sources;

(4) Condition of groundwater supplies within district;

(5) Information as to the probable availability of water from supplemental sources during the next succeeding fiscal year;

(6) The cost of producing water from groundwater within the district, including any replenishment assessment of district;

(7) The cost of water produced within the district from supplemental sources.

(b) On the second Wednesday in February of each year the engineering investigation and report provided for herein shall be delivered to the secretary of such district, in writing. The secretary shall publish, pursuant to Section 6061 of the Government Code, a notice of the receipt of such report and of the public hearing to be held on the date of the regular meeting of the board of directors in March, in a newspaper of general circulation printed and published within the district, at least 10 days prior to the date at which the public hearing regarding water supplies within the district shall be held. The notice, among other information which the district may provide therein, shall contain an invitation to all persons or operators within the district to call at the offices of said district to examine said engineering investigation and report. There shall be held, by the board of directors on the date of the regular meeting of the board of directors in March of each year, a public hearing at which time any person or operator within the district or any person interested in the amounts and source from which all persons and operators produce their total supply of water as well as the estimated difference in the cost of water produced from groundwater within district or supplemental sources, may in person, or by representative, appear and be heard.

(c) On the date of the regular meeting of the board of directors in April of each year, the board of directors shall hold a public hearing for the purpose of determining the need and desirability of levying a basin equity assessment and the amount thereof as well as the need for establishing production requirements and limitations and the extent thereof as to each person or operator within the district for the ensuing water year. In computing and fixing the amount of any such basin equity assessment the board may allow a percent not to exceed 10 percent, as shall be determined by the board of directors of the district, for delinquencies. Notice of the proposed hearing shall be published in the district pursuant to Section 6061 of the Government Code at least 10 days prior to the date set for said hearing.

Such notice shall set forth the following:

(1) That a report regarding water supplies within the district has been prepared;

(2) The date, time and place of the proposed hearing;

(3) The board shall consider at said hearing the need and desirability of levying a basin equity assessment and the amount thereof as well as the need for establishing production requirements

and limitations on persons and operators within the district for the ensuing water year and surcharges in connection therewith;

(4) An invitation to all persons and operators to appear at the public hearing and be heard in regard to any of the foregoing matters.

(d) At the hearing the board shall hear, take, and receive all competent evidence presented and offered in regard to the need for a basin equity assessment, production requirements and limitations in general, and specifically, the extent of such requirements or limitations as to each person or operator within the district, the amount of the basin equity assessment which shall be levied against all persons and operators for all purposes other than irrigation at a uniform rate and may be levied against all persons and operators for irrigation purposes at a different uniform rate for the ensuing water year and the amount of surcharges for production in excess of the basin production limitations. Subsequent to the hearing, the board may, by adopting a resolution which resolution shall require the vote of eight members of the board, find and determine for the ensuing water year as follows:

(1) The estimated total amount of water to be produced by all persons and operators within the district from the groundwater within the district and the estimated amount to be produced by such persons and operators from supplemental sources;

(2) The basin production percentage;

(3) That a basin equity assessment and production requirement and limitation from groundwater within the district are necessary for the protection of the water supply of the district;

(4) The surcharge, in an amount to be determined in the discretion of the board, for production in excess of the production limitations;

(5) The amount of the basin equity assessment to be levied against all persons and operators in a dollar amount per acre-foot of water produced from the groundwater supply for all purposes other than irrigation and that such amount is reasonable;

(6) The amount of the basin equity assessment to be levied against all persons and operators in a dollar amount per acre-foot of water produced from the groundwater supply for irrigation purposes and that such amount is reasonable;

(7) Production requirements or limitations and the surcharge for production in excess of the basin production limitations on persons and operators within the district shall be applicable during the ensuing water year. Such requirements and limitations shall be on the amount of groundwater produced by such persons and operators expressed in a percentage of overall water produced or obtained by such persons or operators from groundwater within the district and from supplemental sources;

(8) That during the ensuing water year, upon the district giving published notice thereof, pursuant to Section 6061 of the Government Code in a newspaper of general circulation printed and

published within the district at least 10 days prior to such a hearing, a subsequent public hearing may be held to modify the basin production percentage, the basin equity assessment, any production requirement or limitation, or the surcharge for production in excess of the production limitation established by the district. Such modifications, if any, shall be effective on the date established by the board and the district shall give notice of such modification 10 days prior to the effective date thereof in the manner provided hereafter in subdivision (e).

The board may exclude all persons and operators who produced 25 acre-feet or less of water from groundwater within the district during the ensuing water year from the levy of the basin equity assessment and the production requirements and limitations provided for herein.

The findings and determinations of the board in regard to any of the foregoing shall be final, conclusive and binding upon all persons and parties.

(e) The district shall thereafter, and in any event prior to July 1 in each year, give notice to each person or operator within the district which notice shall state:

(1) The amount of the basin equity assessment per acre-foot of water produced for purposes other than irrigation and the amount of the basin equity assessment per acre-foot of water produced for irrigation purposes;

(2) The basin production percentage;

(3) The production requirement or limitation upon the person or operator; and

(4) The amount of surcharge imposed for production in excess of the basin production limitations.

The notice provided for herein and the notice of any subsequent modifications may be sent by post card or by other first-class mail with postage prepaid by the district.

(f) Each person or operator within the district not excluded from the levy of the basin equity assessment and the production requirements and limitations, shall file with the district, on or before the 30th day of September of each year, a basin equity assessment report in the form prescribed by the district setting forth the total amounts of water produced from groundwater within the district and from supplemental sources during the preceding water year by such person or operator. The statement shall be verified by a written declaration under penalty of perjury. In the event that the person or operator has been required by the district to produce or has in fact produced more water from groundwater within the district than the equivalent of the basin production percentage determined by the district, such person or operator shall pay to the district, on or before September 30, an amount determined by the number of acre-feet of water which such person or operator has produced from groundwater within the district in excess of the acre-foot equivalent of the basin production percentage multiplied by the applicable

basin equity assessment rate, plus the amount of surcharge due for production in excess of the production limitations. In the event that a person or operator, pursuant to the requirement of the district, has produced from groundwater within the district less than the equivalent of the basin production percentage, such person or operator, on or before the 30th day of November, shall be paid by the district from the basin equity assessment fund an amount determined by the number of acre-feet by which the production of such person or operator from groundwater as required by the district is less than the acre-foot equivalent of the basin production percentage multiplied by the applicable basin equity assessment rate, or if the production of such person or operator from groundwater is more than the production required by the district and less than the equivalent of the basin equity production percentage, then such person or operator shall be paid by the district an amount determined by the number of acre-feet by which the actual production of such person or operator from groundwater is less than the acre-foot equivalent of the basin production percentage multiplied by the applicable basin equity assessment.

(g) If any person or operator shall fail to pay the amount due by reason of the basin equity assessment or surcharge due for production in excess of the production limitations when due, the district shall charge interest on the delinquent amount due at the rate of 1 percent each month or fraction thereof for which the amount due remains delinquent. Should any person or operator within the district fail to file a basin equity assessment report on or before the 30th day of September of any year, the district shall, in addition to charging interest as provided herein, assess a penalty charge against such operator in the amount of 10 percent of the amount found by said district to be due.

The district may, from time to time, require other reports from persons and operators as necessary and desirable in the application of the basin equity assessment procedures provided herein.

Upon good cause shown an amendment to any report required under this section may be filed or a correction of any such report may be made within six (6) months after the date such report was filed with the district.

SEC. 17. Section 36 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 36. The district shall not be bound by any contract except as hereinafter provided unless the same shall be made in writing approved by resolution of the board of directors and properly executed by its officers who have been so authorized to do by the district. The approval of the form of all contracts shall be endorsed thereon by an attorney for the district.

The 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 act.

(c) The acquisition or disposal of any real or personal property.

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 works shall be made by the district with the lowest and best bidder after the publication pursuant to Section 6061 of the Government Code in a newspaper of general circulation published within said district, of a notice calling for bids and fixing a period during which such bids will be received, which shall be not less than 10 days after the publication of said notice. The district may reject any and all such bids presented and may readvertise in its discretion. After rejecting such bids or if no bids are received, said district may determine and declare that in its opinion, based on estimates submitted by the engineer for said district, any work may be performed better or more economically by said district with its own employees, or after hiring additional employees; and after the adoption of a resolution to this effect by at least seven affirmative votes of the directors of said district, said district may proceed to have such work done in the manner stated and without further observance of the provisions of this section.

Contracts may be let or work undertaken without advertising for bids if such work shall be deemed by the district to be of urgent necessity for the preservation of life, health or property and shall be authorized by a resolution passed by at least eight affirmative votes of the board of directors and containing a declaration of the facts constituting such urgency.

Contracts, in writing or otherwise, for the acquisition or disposal of any real property, for the acquisition or leasing of personal property, the purchase of water to replenish the groundwater supplies of the district, the repair of district equipment or structures, and for legal, engineering, and other professional services may be let without calling for competitive bids.

Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board payable to said district for its use, for at least 25 percent of the amount of the estimated contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer of said district, and be subject to approval by the board of directors of said district.

SEC. 18. Section 37 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 37. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant or check signed by the president and countersigned by the secretary manager or signed and countersigned by such persons as the board may approve. The treasurer shall report, at such times as the board of directors shall request, the amount of money of the district on deposit, the amount of receipts, and the amount or amounts paid out of the district funds

since the last preceding report. The report shall be verified and filed with the secretary manager of the board.

SEC. 19. Section 38.1 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 38.1. Any water-producing facility which is producing water within the exterior boundaries of the district may be exempted by order of the board of directors from the payment of the replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations provided for in this act upon the filing of a verified petition by the owner of the water-producing facility.

The petition shall be filed with the board of directors of the district and shall include a description of the land upon which the water-producing facility is located, a description of the water-producing facility, a statement of water quality analysis of the water produced by the water-producing facility, the names and addresses of the owners of the water-producing facility, and shall set forth the purpose or purposes for which any water produced from the water-producing facility will be used. The petition may include one or more water-producing facilities located in the same general area, provided each of such facilities are owned by the same owner. Petitioner shall pay to the district the expenses of advertising and costs incident to the proceedings.

Upon the filing of the petition, the secretary of the district shall cause an investigation to be made by the district geologist or an engineer or engineers for the purpose of determining whether the water produced by the water-producing facility is suitable or unsuitable for domestic or agricultural purposes. Upon completion of the investigation, a report of the results thereof shall be filed with the board of directors and a copy shall be mailed to the petitioner. Upon filing of the report, the board of directors shall fix a time for a hearing upon said petition and report, which time shall be not less than ten (10) days and not more than seventy-five (75) days after the filing of said report, and shall cause a notice of the filing thereof and time and place fixed for the holding of the hearing to be published one time, at least ten (10) days before the date fixed for such hearing, in a newspaper of general circulation printed and published within the district. A copy of such notice shall be mailed to the petitioner by first-class mail with postage prepaid not less than seven (7) days prior to the date of the hearing.

At the time of the hearing, the board of directors shall determine whether the water produced from the water-producing facility or facilities is suitable or unsuitable for domestic or agricultural purposes. If the board of directors finds and determines the water produced from such facility or facilities or any of them is unsuitable for domestic or agricultural purposes, and further finds and determines that the production of such unsuitable water will have no adverse effects on the groundwater supplies of the district, the board of directors may make an order that water produced from the

water-producing facility or facilities shall be exempted from the payment of the replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations as provided in this act.

Nothing contained in this section shall exclude the operator of any water-producing facility exempted from the payments of replenishment assessments from affixing a water measuring device to the facility as provided in Section 35 or from filing the water production statements provided for in Section 29.

The board of directors of the district may from time to time require that the owner of any water-producing facility or facilities, which are exempted from the payment of replenishment assessments and basin equity assessments, provide additional water quality analyses of water being produced from any water-producing facility which has been exempted from the payment of replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations as provided in this act.

The district shall at all times have the right to enter upon the premises where such exempted water-producing facility or facilities are located for the purpose of obtaining samples of the water being produced.

If at any time it appears that the quality of water being produced from a water-producing facility which has been exempted from payment of replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations has become suitable for domestic or irrigation purposes, the secretary manager of the district shall fix a time for a hearing to determine whether the water produced from the water-producing facility has become suitable for domestic or agricultural purposes. The secretary manager of the district shall cause a notice of the hearing to be published one time, at least ten (10) days before the date fixed for such hearing, in a newspaper of general circulation printed and published within the district. A copy of such notice shall be mailed to the owner of the water-producing facility by first-class mail with postage prepaid not less than seven (7) days prior to the date of the hearing.

If upon such hearing, the board of directors finds and determines that the quality of the water being produced from such water-producing facility has become suitable for domestic or irrigation purposes or that the production of water therefrom will have an adverse effect on the groundwater supplies of the district, the board of directors shall make an order that the exemption of payment of replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations on water being produced from said water-producing facility shall be canceled. Notice of such cancellation of exemption shall be sent to the owner of the specified water-producing facility by first-class mail with postage prepaid. The effective date of the

cancellation of exemption from the payment of replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations shall be ten (10) days after the date of mailing of the notice of cancellation.

SEC. 20. Section 42 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 42. Whenever any warrant of the district payable on demand is presented to the treasurer for payment when funds are not available for the payment thereof, it shall thereafter draw interest at a rate to be determined by resolution of the board of directors, not, however, to exceed seven per centum per annum, until public notice is given that such funds are available. Upon the presentation of any such warrants for payment, when funds of the district are not available to pay the same, the treasurer shall endorse thereon the words "funds not available for payment," with the date of presentation and shall note thereon the rate of interest that such warrant shall thereafter bear and shall sign his name thereto. He shall keep a record showing the number and amount of each such warrant, the date of its issuance, the person in whose favor it was issued, and the date of its presentation for payment. Whenever there is sufficient money in the treasury to pay all such outstanding warrants or whenever the board of directors shall order that payment shall be made of all such warrants presented for payment prior to a certain date, and there is sufficient money available for such payments, the treasurer shall give notice by publication in some newspaper published in the district, stating that he is prepared to pay all warrants of the district for the payment of which funds were not available upon their original presentation, or all such warrants which were presented for payment prior to the date fixed by the board of directors, as the case may be, and no further description of the warrants entitled to payment need be made in the notice. Upon the presentation of any warrant entitled to payment under the terms of the notice, the treasurer shall pay it, together with interest thereon at the rate specified by the board of directors, from the date of its original presentation for payment to the date of the first publication of said notice, and all warrants for the payment of which funds are declared in the notice to be available shall cease to draw interest at the time of the first publication of the notice. The treasurer shall enter in the record hereinbefore required to be kept, the dates of the payment of all such warrants, the names of the persons to whom payments are made and the amount paid to each person.

SEC. 21. Section 45 is added to the Orange County Water District Act (Chapter 924 of the Statutes of 1933), to read:

Sec. 45. Any statement, report, notice, or other document required by this act to be filed with or given to the district shall be deemed filed or given as of the date the same is physically delivered to the district office or as of the date it is postmarked when the same is placed in the United States mail addressed to the district at its office with first-class postage prepaid.

SEC. 22. 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 993

An act to amend Section 21113 of the Vehicle Code, relating to public property.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 21113 of the Vehicle Code is amended to read:

21113. (a) No person shall drive any vehicle or animal, nor shall any person stop, park, or leave standing any vehicle or animal, whether attended or unattended, upon the driveways, paths, parking facilities, or the grounds of any public school, state university, state college, unit of the state park system, county park, municipal airport, rapid transit district, transit development board, or any property under the direct control of the legislative body of a municipality, or any state, county, or hospital district institution or building, or any educational institution exempted in whole or in part from taxation, or any harbor district formed pursuant to Part 3 (commencing with Section 6000) of Division 8 of the Harbors and Navigation Code, or state grounds served by the California State Police, except with the permission of, and upon and subject to any condition or regulation which may be imposed by the legislative body of the municipality, or the governing board or officer of the public school, state university, state college, county park, municipal airport, rapid transit district, transit development board, or state, county, or hospital district institution or building, or educational institution, or harbor district, or the Director of Parks and Recreation regarding units of the state park system or the state agency with jurisdiction over the grounds served by the California State Police.

(b) Every governing board, legislative body, or officer shall erect or place appropriate signs giving notice of any special conditions or regulations that are imposed under this section and every board, legislative body, or officer shall also prepare and keep available at the principal administrative office of the board, legislative body, or officer, for examination by all interested persons, a written statement of all those special conditions and regulations adopted under this section.

(c) When any governing board, legislative body, or officer permits public traffic upon the driveways, paths, parking facilities, or grounds under their control then, except for those conditions imposed or regulations enacted by the governing board, legislative body, or officer applicable to the traffic, all the provisions of this code relating to traffic upon the highways shall be applicable to the traffic upon the driveways, paths, parking facilities, or grounds.

(d) With respect to the permitted use of vehicles or animals on property under the direct control of the legislative body of a municipality, no change in the use of vehicles or animals on such property, which had been permitted on January 1, 1976, shall be effective unless and until the legislative body, at a meeting open to the general public, determines that the use of vehicles or animals on such property should be prohibited or regulated.

(e) A transit development board may adopt ordinances, rules, or regulations to restrict, or specify the conditions for, the use of bicycles, motorized bicycles, skateboards, and roller skates on property under the control of, or any portion of property used by, the board.

(f) A public agency, including, but not limited to, the Board of Regents of the University of California and the Trustees of the California State University and Colleges, may adopt rules or regulations to restrict, or specify the conditions for, the use of bicycles, motorized bicycles, skateboards, and roller skates on public property under the jurisdiction of that agency.

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 994

An act to amend Sections 5001.8, 5006.4, 5006.41, 5006.45, 5006.47, 5006.48, 5019.56, 5070.5, 5071, and 5071.7 of, to add Chapter 1.25 (commencing with Section 5090.01) to Division 5 of, and to repeal Division 7.8 (commencing with Section 8700) of, the Public Resources Code, and to amend Sections 38001 and 42204 of, and to amend, repeal, and add Section 38225 of, the Vehicle Code, relating to off-highway vehicles, and making an appropriation therefor.

[Approved by Governor September 13, 1982 Filed with Secretary of State September 14, 1982]

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

SECTION 1. Section 5001.8 of the Public Resources Code is amended to read:

5001.8. (a) The use of motor vehicles in units of the state park system is subject to the following limitations:

(1) In state wildernesses, natural preserves, and cultural preserves, use is prohibited.

(2) In state parks, state reserves, state beaches, wayside campgrounds, and historical units, use is confined to paved areas and other areas specifically designated and maintained for normal ingress, egress, and parking.

(3) In state recreation areas, use is confined to specifically designated and maintained roads and trails.

(b) The use of motor vehicles on lands in the state vehicular recreation area and trail system is confined to areas and routes designated for that purpose.

SEC. 2. Section 5006.4 of the Public Resources Code is amended to read:

5006.4. (a) The department may acquire, on behalf of the state, a fee or lesser interest in real and personal property located near Hollister in San Benito County for the state park system. If the property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the director and the lessor, and with the rental to be paid by the department. Any interest acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code). With respect to lands subject to the grantor's reservation of oil and gas and mineral rights, the proviso contained in Section 5019 shall not apply.

(b) The department shall carry out a program in that unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related state park system purposes. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01).

Any fees, rentals, or other returns collected by the department in its administration of the unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund.

SEC. 3. Section 5006.41 of the Public Resources Code is amended to read:

5006.41. The department may enter into agreements with the Department of Water Resources and the Department of Fish and Game to plan, develop, and administer real and personal property located in the vicinity of Oroville. The department shall carry out a program in that unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles. Areas for the recreational use of off-highway

vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01).

Any fees, rentals, or other returns collected by the department in its administration of the unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund.

SEC. 4. Section 5006.45 of the Public Resources Code is amended to read:

5006.45. (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser interest in such real and personal property located in the vicinity of Ocotillo Wells in San Diego County as is designated in writing to the Director of General Services by the Director of Parks and Recreation. If the property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the Director of General Services and the lessor, and with the rental to be paid by the Department of Parks and Recreation.

(b) Prior to making any acquisition:

(1) The Director of Parks and Recreation shall recommend to the State Park and Recreation Commission his designation of lands presently owned by the department to be included in the vehicular recreation area provided in subdivision (d), and no acquisition may be made unless and until the commission has concurred in that designation.

(2) The director shall conduct at least one public hearing in San Diego County regarding the designation of lands presently owned by the department to be included in the vehicular recreation area. The director shall consider and be guided by testimony presented at the hearing.

(c) Any interest acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code). The proviso in Section 5019 shall not apply to any property acquired pursuant to this section that is subject to a reservation of oil and mineral rights if the Director of Parks and Recreation finds that the proposed prospecting or extraction of oil and minerals will not unreasonably interfere with the use of the property or adjoining property for recreation and if the grantor or lessor of the surface of the property, if other than the state or the holder of such a reservation, consents to the proposed prospecting or extraction.

(d) Upon acquisition of the interest, the Director of General Services shall forthwith transfer the interest to the jurisdiction of the department, which shall administer the property as a unit of the state park system. The department shall carry out a program in that unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related state park system purposes. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01).

(e) Any fees, rentals, or other returns collected by the department in its administration of the unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund.

(f) The Director of Parks and Recreation shall review, and report annually to the State Park and Recreation Commission regarding, the development, maintenance, administration, and public usage of the vehicular recreation area and its success, effects on the environment, and appropriateness as a unit of the state park system.

SEC. 5. Section 5006.47 of the Public Resources Code is amended to read:

5006.47. (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser right or interest in such real and personal property in the Counties of Los Angeles and Ventura located in the vicinity of Gorman and commonly known as Hungry Valley as is designated in writing by the Director of Parks and Recreation to the Director of General Services. If the property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the Director of General Services and the lessor, and consented to by the Director of Parks and Recreation, and with rent to be paid by the Department of Parks and Recreation.

(b) Any interest in property acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code). The proviso in Section 5019 shall not apply to any property acquired pursuant to this section that is subject to a reservation of oil and mineral rights if the Director of Parks and Recreation finds that the proposed prospecting or extraction of oil and minerals will not unreasonably interfere with the use of the property or adjoining property for recreation and if the grantor or lessor of the surface of the property, if other than the state or the holder of such a reservation, consents to the proposed prospecting or extraction.

(c) Upon acquisition of the property, the Director of General Services shall transfer jurisdiction over the property to the Department of Parks and Recreation, which shall administer the property as a unit of the state park system. The 51st District Agricultural Association may propose a name for the unit. The department shall carry out a program in that unit of planning, development, construction, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related purposes of the state park system. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01). The 51st District Agricultural Association may use the land and facilities within the unit for a fair oriented to off-highway vehicles for not more than 10 days each year if the Director of Parks and Recreation approves that use. The director may impose such terms and conditions upon such use as the director deems necessary

and proper. The dates of that use shall be selected each year prior to January 1 and shall be subject to the approval of the Director of Parks and Recreation.

(d) If the Director of General Services determines that it is necessary, in order to purchase the property, to offer to the person from whom it is being purchased an option to lease back all or part of the property, the director may make such an offer if the Director of Parks and Recreation determines at the time of the purchase that the property is not then needed for the purposes of the state park system and will not be needed for the term of the lease thus offered. At any time after the option expires, the Director of General Services may offer, under competitive bidding procedures, all or part of the property for lease if the Director of Parks and Recreation determines at that time it is not then needed for the purposes of the state park system and will not be needed for the term of the lease to be offered. Any lease entered into pursuant to this section shall be subject to Section 15862 of the Government Code. Notwithstanding the provisions of Section 15863 of the Government Code, all rent accruing from any such lease after jurisdiction over the property is transferred to the Department of Parks and Recreation pursuant to subdivision (c) shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

(e) Any fees or other returns collected by the department in its administration of the unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

SEC. 6. Section 5006.48 of the Public Resources Code is amended to read:

5006.48. (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser right or interest in real and personal property in the Counties of Alameda and San Joaquin located approximately 10 miles east of the City of Livermore and commonly known as the Carnegie Cycle Park. If the property is leased, the lease shall be for such term and for such consideration as is mutally agreed upon by and between the Director of General Services and the lessor, and consented to by the Director of Parks and Recreation, and with rent to be paid by the Department of Parks and Recreation.

(b) Any interest in property acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

(c) Upon acquisition of the property, the Director of General Services shall transfer jurisdiction over the property to the Department of Parks and Recreation, which shall administer the property as a unit of the state park system. The Department of Parks and Recreation shall carry out a program in that unit of planning,

development, construction, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related purposes of the state park system. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01).

(d) The Director of General Services may offer, under competitive bidding procedures, all or part of the property for lease if the Director of Parks and Recreation determines at that time it is not then needed for the purposes of the state park system and will not be needed for the term of the lease to be offered. Any lease entered into pursuant to this section shall be subject to Section 15862 of the Government Code. Notwithstanding the provisions of Section 15863 of the Government Code, all rent accruing from any such lease after jurisdiction over the property is transferred to the Department of Parks and Recreation pursuant to subdivision (c) shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

(e) Any fees or other returns collected by the Department of Parks and Recreation in its administration of such unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

SEC. 7. Section 5019.56 of the Public Resources Code is amended to read:

5019.56. State recreation units consist of areas selected, developed, and operated to provide outdoor recreational opportunities. The units shall be designated by the commission by naming, in accordance with the provisions of Article 1 (commencing with Section 5001) and this article relating to classification.

In the planning of improvements to be undertaken within state recreation units, consideration shall be given to compatibility of design with the surrounding scenic and environmental characteristics.

State recreation units may be established in the terrestrial or underwater environments of the state and shall be further classified as one of the following types:

(a) State recreation areas, consisting of areas selected and developed to provide multiple recreational opportunities to meet other than purely local needs. The areas shall be selected for their having terrain capable of withstanding extensive human impact and for their proximity to large population centers, major routes of travel, or proven recreational resources such as manmade or natural bodies of water. Areas containing ecological, geological, scenic, or cultural resources of significant value shall be preserved within state wildernesses, state reserves, state parks, or natural or cultural preserves.

Improvements may be undertaken to provide for recreational

activities, including, but not limited to, camping, picknicking, swimming, hiking, bicycling, horseback riding, boating, waterskiing, diving, winter sports, fishing, and hunting.

Improvements to provide for urban or indoor formalized recreational activities shall not be undertaken within state recreation areas.

(b) Underwater recreation areas, consisting of areas in the underwater environment selected and developed to provide surface and subsurface water-oriented recreational opportunities, while preserving basic resource values for present and future generations.

(c) State beaches, consisting of areas with frontage on the ocean, or bays designed to provide swimming, boating, fishing, and other beach-oriented recreational activities. Coastal areas containing ecological, geological, scenic, or cultural resources of significant value shall be preserved within state wildernesses, state reserves, state parks, or natural or cultural preserves.

(d) Wayside campgrounds, consisting of relatively small areas suitable for overnight camping and offering convenient access to major highways.

SEC. 8. Section 5070.5 of the Public Resources Code is amended to read:

5070.5. The Legislature hereby declares that it is the policy of the state to:

(a) Increase accessibility and enhance the use, enjoyment, and understanding of California's scenic, natural, historic, and cultural resources.

(b) Encourage hiking, horseback riding, and bicycling as important contributions to the health and welfare of the state's population.

(c) Provide for the use of recreational trails by physically disabled persons, the elderly, and others in need of graduated trails with special safety features, particularly in conjunction with heritage corridors.

(d) Increase opportunities for recreational boating on designated waterways.

(e) Increase opportunities for use of recreational vehicles in designated areas and trail corridors pursuant to Chapter 1.25 (commencing with Section 5090.01).

(f) Provide for the development and maintenance of a statewide system of recreational and interpretive trails, including heritage corridors.

(g) Increase the recreational and educational use of public roads by developing guides, maps, and other interpretive materials concerning significant historical, agricultural, scenic, and other resource areas.

(h) Encourage the development by cities, counties, districts, and private groups of recreational and interpretive trails, including heritage corridors.

SEC. 9. Section 5071 of the Public Resources Code is amended to

read:

5071. The plan shall contain, but shall not be limited to, the following elements:

(a) Pedestrian trails.

(b) Bikeways.

(c) Equestrian trails.

(d) Boating trails.

(e) Trails and areas suitable for use by physically disabled persons, the elderly, and others in need of graduated trails, especially along designated heritage corridors.

(f) Cross-country skiing trails.

(g) Heritage corridors.

SECTION 1. Section 5071.7 of the Public Resources Code is amended to read:

5071.7. (a) In planning the system, the director shall consult with and seek the assistance of the Department of Transportation. The Department of Transportation shall plan and design those trail routes that are in need of construction contiguous to state highways and serve both a transportation and a recreational need.

The Department of Transportation shall install or supervise the installation of signs along heritage corridors consistent with the plan element developed pursuant to this section and Section 5073.1; provided, however, that it shall neither install nor supervise the installation of those signs until it determines that it has available to it adequate volunteers, funds, or a combination thereof, to install or supervise the installation of the signs, or until the Legislature appropriates sufficient funds for the installation or supervision of installation, whichever occurs first.

(b) The element of the plan relating to boating trails and other segments of the system which are oriented to waterways shall be prepared and maintained by the Department of Boating and Waterways pursuant to Article 2.6 (commencing with Section 68) of Chapter 2 of Division 1 of the Harbors and Navigation Code. Those segments shall be integrated with the California Protected Waterways Plan developed pursuant to Chapter 1273 of the Statutes of 1968, and shall be planned so as to be consistent with the preservation of rivers of the California Wild and Scenic Rivers System, as provided in Chapter 1.4 (commencing with Section 5093.50) of this division.

(c) On and after January 1, 1983, any element of the plan relating to trails and areas for the use of off-highway motor vehicles shall be prepared and maintained by the Division of Off-Highway Motor Vehicle Recreation pursuant to Chapter 1.25 (commencing with Section 5090.01).

(d) In planning the system, the director shall consult with and seek the assistance of the Department of Rehabilitation to assure that adequate provision is made for the use of recreational trails, including heritage corridors by physically disabled persons.

SEC. 11. Chapter 1.25 (commencing with Section 5090.01) is

added to Division 5 of the Public Resources Code, to read:

CHAPTER 1.25. OFF-HIGHWAY MOTOR VEHICLE RECREATION

Article 1. General Provisions

5090.01. This chapter shall be known and may be cited as the Off-Highway Motor Vehicle Recreation Act of 1982.

5090.02. (a) The Legislature finds that off-highway motor vehicles are enjoying an ever-increasing popularity in California and that the indiscriminate and uncontrolled use of those vehicles may have a deleterious impact on the environment, wildlife habitats, native wildlife, and native flora.

(b) The Legislature hereby declares that adequate facilities for the use of off-highway vehicles are essential to the maintenance of a desirable ecological balance.

(c) Accordingly, it is the intent of the Legislature that:

(1) Existing off-highway motor vehicle recreational facilities be expanded in a manner consistent with this chapter.

(2) New off-highway motor vehicle recreational facilities be provided pursuant to this chapter.

(3) Implementation of the Off-Highway Motor Vehicle Recreation Program have high priority within the Department of Parks and Recreation and prompt and effective implementation of the program be the principal objective of the Division of Off-Highway Motor Vehicle Recreation.

(4) Off-highway motor vehicle recreation be furthered through financial assistance to local government and joint undertakings with agencies of the United States.

(5) Maintenance of state vehicular recreation areas and trails be improved, development and construction be accelerated, and operations be expanded.

5090.03. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

5090.04. "Commission" means the Off-Highway Motor Vehicle Recreation Commission.

5090.05. "Division" means the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation.

5090.06. "Fund" means the Off-Highway Vehicle Fund created by subdivision (b) of Section 38225 of the Vehicle Code.

5090.07. "Off-highway motor vehicle" means an off-highway motor vehicle as defined in Section 38006 of the Vehicle Code.

5090.08. "Program" means the Off-Highway Motor Vehicle Recreation Program.

5090.09. "System" means the State Vehicular Recreation Area and Trail System.

5090.10. The Auditor General shall prepare and submit a program performance audit report to the Legislature on or before October 1, 1984, on the implementation of this chapter. The report

shall include recommendations for legislation deemed necessary by the Auditor General.

Article 2. Off-Highway Motor Vehicle Recreation Commission

5090.15. There is in the department the Off-Highway Motor Vehicle Recreation Commission, consisting of seven members, three of whom shall be appointed by the Governor, two of whom shall be appointed by the Senate Rules Committee, and two of whom shall be appointed by the Speaker of the Assembly.

Whenever any reference is made to the State Park and Recreation Commission pertaining to a duty, power, purpose, responsibility, or jurisdiction of the State Park and Recreation Commission with respect to the State Vehicular Recreation Area and Trail System, as established by this chapter, it shall be deemed to be a reference to, and to mean, the Off-Highway Motor Vehicle Recreation Commission.

5090.16. The members of the commission shall have experience and background consistent with the functions, duties, and responsibilities of the commission. In making appointments to the commission, the Governor, Senate Rules Committee, and Speaker of the Assembly shall consider the places of residence of the members of the commission in order to assure statewide representation.

5090.17. The terms of the members of the commission shall be four years, except that the members first appointed to the commission shall classify themselves by lot so that the term of three members expire January 15, 1984, the term of two members shall expire January 15, 1985, and the term of two members shall expire January 15, 1986.

5090.18. In case of any vacancy in the membership of the commission, the appointing authority of the vacating member shall appoint a successor member for the unexpired portion of the term.

5090.19. The members of the commission shall elect a chairman from their number who shall serve as chairman for one year and until his or her successor is elected.

5090.20. The director is the secretary of the commission.

5090.21. Members of the commission shall serve without compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in the performance of their duties.

5090.22. The chairman of the commission may appoint committees composed of members of the commission and prescribe the jurisdiction of each.

5090.23. The commission shall establish policies for the guidance of the director and the division regarding all aspects of the system and the program.

5090.24. The commission shall have the following particular duties and responsibilities:

(a) Be fully informed regarding all governmental activities

affecting the program.

(b) Meet from time to time at various locations throughout the state to receive comments on the implementation of the program.

(c) Consider, upon the request of any owner or tenant, whose property is in the vicinity of any land in the system, any alleged adverse impacts occurring on that person's property from the operation of off-highway motor vehicles and recommend to the division suitable measures for the prevention of any adverse impact determined by the commission to be occurring.

(d) Review and comment annually to the director on the proposed budget of expenditures from the fund.

(e) Review and approve all capital outlay expenditures from the fund proposed for inclusion in the budget.

(f) Report annually to the Legislature, the Governor, appropriate agencies of government, off-highway motor vehicle users and user groups, and the general public regarding the status of the program and the status of off-highway motor vehicle recreation generally.

Article 3. Division of Off-Highway Motor Vehicle Recreation

5090.30. There is in the department the Division of Off-Highway Motor Vehicle Recreation. Whenever any reference is made to the Office of Off-Highway Motor Vehicle Recreation, it shall be deemed to be a reference to, and to mean, the division. Section 507.1 does not apply to the division.

5090.31. The division shall be under the direction of a deputy director appointed by the director. The deputy director shall have no responsibilities other than directing and managing the division and the program.

5090.32. All of the following functions, duties, and responsibilities of the department shall be performed exclusively by the division:

(a) The planning, acquisition, development, construction, and conservation of lands in and for the system.

(b) The direct management, maintenance, administration, and operation of lands in the system.

(c) Management of the fund.

(d) The implementation of all aspects of the program.

5090.33. The division shall have the following particular duties and responsibilities:

(a) The implementation of the policies established by the commission.

(b) Provision of staff assistance to the commission.

(c) Preparation of plans for lands in, or proposed to be included in, the system; provided, however, that no plan shall be prepared in any instance specified in subdivision (c) of Section 5002.2.

(d) The conduct of surveys and the preparation of studies that are necessary or desirable for furthering the program.

(e) The recruitment and utilization of volunteers to further the program.

5090.34. Under the direction of the commission, the division shall publish a guidebook, including the text of this chapter, other laws and regulations relating to the program, and maps of areas and trails for the system. The guidebook may include other public areas, trails, and facilities for the use of off-highway motor vehicles. The guidebook shall include information regarding the responsibility of users of the system and shall set forth pertinent laws, rules, and regulations, including particular provisions and other information intended to prevent trespass and damage to public and private property. The guidebook shall be prepared at minimal cost to facilitate the broadest possible distribution and shall be offered for sale at a price sufficient to meet all costs of preparation, printing, and distribution.

5090.35. The protection of public safety, the appropriate utilization of lands in the system, and the conservation of land resources in the system are of the highest priority in the management of the system; and, accordingly, the division shall promptly repair and continuously maintain areas and trails, anticipate and prevent accelerated and unnatural erosion to the extent possible, and restore lands damaged by erosion.

5090.36. The division may enter into contracts with concessionaires and cooperative agreements with other public agencies, pursuant to procedures specified in this division, for the care, maintenance, and control of lands in the system.

Article 4. State Vehicular Recreation Area and Trail System

5090.40. The system consists of the following lands:

(a) Carnegie, Clay Pit, Hollister Hills, Hungry Valley, Pismo Dunes, and Ocotillo Wells State Vehicular Recreation Areas, exclusive of the lands designated in Section 5090.41.

(b) Any lands added to the state vehicular recreation areas listed in subdivision (a).

(c) New state vehicular recreation areas.

(d) State vehicular recreational trails, including vehicular recreational trails that are under the jurisdiction of another governmental agency that has authorized their designation as components of the system.

5090.41. The following lands within the boundaries of the state vehicular recreation areas listed in subdivision (a) of Section 5090.40 are part of the state park system:

(a) Sixty acres classified as natural preserve and 830 acres classifed as cultural preserve at Hungry Valley State Vehicular Recreation Area. The division shall continue the management of 4,160 acres of grassland as a part of the State Vehicular Recreation Area and Trail System, but shall provide for the operation of off-highway motor vehicles in a manner compatible with the continued healthy growth of natural grasses and associated flora.

(b) One acre classified as a cultural preserve at Ocotillo Wells

State Vehicular Recreation Area.

(c) Two hundred eighty acres at Hollister Hills State Vehicular Recreation Area set aside for nature study and closed to the operation of off-highway motor vehicles; however, any portion of that 280 acres that, as of January 1, 1985, has not been classified by the State Park and Recreation Commission pursuant to subdivision (c) of Section 5090.43 shall become a part of the State Vehicular Recreation Area and Trail System on that date.

5090.42. Lands in the system shall be selected, developed, and managed to provide outdoor recreational opportunities consistent with the findings in Section 5090.02 and pursuant to the other provisions of this chapter. Upon acquisition for the system, the area or trail shall be designated and named by the commission.

5090.43. (a) State vehicular recreation areas shall be established on lands where topographic features and associated recreational opportunities for off-highway motor vehicles are the primary values. Areas shall be developed, managed, and operated for the purpose of making the fullest public use of the outdoor recreational opportunities present, and the natural and cultural elements of the environment may be managed or modified to enhance the recreational experience.

(b) Lands shall be selected for acquisition for state vehicular recreation areas so as to minimize the need for establishing natural or cultural preserves or state wildernesses. The establishment of a natural or cultural preserve or state wilderness within the Carnegie, Clay Pit, or Pismo Dunes State Vehicular Recreation Area is prohibited.

(c) Whenever it would be impracticable to acquire lands for an area without establishing a natural or cultural preserve or a state wilderness within the boundaries of the area, the director shall recommend to the State Park and Recreation Commission proposed boundaries and a resource management policy for the preserve or wilderness for its review and approval and for classification as a preserve or wilderness. No general plan shall be prepared for the preserve or wilderness unless the resource management policy contemplates that the preserve or wilderness will itself be a public attraction necessitating management as if it were a unit of the state park system.

(d) All lands within a state vehicular recreation area that are not classified by the State Park and Recreation Commission pursuant to subdivision (c) are under the jurisdiction of the Off-Highway Motor Vehicle Recreation Commission and the division and are part of the system.

5090.44. State vehicular recreation trails shall consist of corridors which are designated and maintained for recreational travel by off-highway motor vehicles, which are not suitable for normal travel by conventional two-wheel drive vehicles, and which are designated for off-highway motor vehicle travel by the owner of, or other person or public entity having control over, the property traversed by the

trail. State vehicular recreation trails may include lands designated and maintained as trailheads.

5090.45. Eminent domain shall not be exercised to acquire any interest in property for a state vehicular recreation trail by the department or any public agency that has entered into a cooperative agreement with the division.

5090.46. No owner or other person having legal control of property in the vicinity of any lands in the system is liable for any actions of any type resulting from, or caused by, the user of an off-highway motor vehicle who is trespassing on property outside the system; and no owner or other person having legal control of property in the vicinity of any lands in the system is liable for any one's actions of any type commenced on, or taking place within, the boundaries of lands in the system.

Article 5. Local Assistance Grants and Cooperative Agreements with Federal Agencies

5090.50. Grants may be made to cities, counties, and appropriate districts for the planning, acquisition, development, construction, maintenance, administration, operation, and conservation of trails, trailheads, areas, and other facilities for the use of off-highway motor vehicles that are in accordance with local plans and any plans for off-highway motor vehicle recreation areas and trails prepared by the division.

5090.51. (a) Except as provided in subdivision (b), to be eligible for a grant, the applicant shall agree to provide, and provide, matching funds, or the equivalent value of services, material, or property used, in an amount of not less than 25 percent of the total expense of the off-highway motor vehicle facility.

(b) Notwithstanding subdivision (a), there shall be no matching fund requirement imposed with respect to any grant, or portion of any grant, that consists of funding for the planning, acquisition, development, or construction of a regional off-highway motor vehicle facility. The commission shall adopt criteria for the determination of which facilities are regional and which are less than regional. The criteria shall take into account, at a minimum, all of the following:

(a) That the facility for which a grant is requested is or will be primarily for casual usage.

(b) The size of each facility.

(c) The diversity of vehicle-related recreational activities to be provided by the facility.

(d) The size of the population of potential users of the facility and the extent of the geographic area to be served by the facility.

(e) The potential for each facility for which a grant is requested to become financially self-sustaining.

5090.52. No grant may be made pursuant to Section 5090.50 unless the governing body of the applicant has, by resolution, approved the

facility.

5090.55. Any moneys in the fund allocated pursuant to subdivision (a) of Section 5090.61 and not appropriated for local assistance grants pursuant to Section 5090.50, shall be available for appropriation to the division for expenditure pursuant to cooperative agreements with agencies of the United States for any joint undertaking of any function that the division is authorized by this chapter to perform, except the enforcement of laws controlling the operation of off-highway motor vehicles.

Article 6. Fiscal Management

5090.60. The fund consists of deposits from the following sources:

(a) Revenues transferred from the Motor Vehicle Fuel Account in the Transportation Tax Fund.

(b) Fees paid pursuant to subdivision (b) of Section 38225 of the Vehicle Code.

(c) Unexpended service fees.

(d) Fees and other proceeds collected at state vehicular recreation areas, as provided in subdivision (c) of Section 5010.

(e) Fines and forfeitures, as provided in Section 42204 of the Vehicle Code.

(f) Reimbursements.

(g) Revenues and income from any other source required by law to be deposited in the fund.

5090.61. Moneys in the fund shall be available for appropriation in accordance with the following allocation:

(a) An amount, not to exceed 50 percent of the revenues from the special fee required by subdivision (b) of Section 38225 of the Vehicle Code and the revenues transferred from the Motor Vehicle Fuel Account, shall be available for local assistance grants pursuant to Article 5 (commencing with Section 5090.50). Any portion of this amount not granted to local public agencies shall be available to the division for coopertive agreements with agencies of the United States pursuant to Section 5090.55.

(b) The remainder of the revenues from the special fee required by subdivision (b) of Section 38225 of the Vehicle Code and the remainder of the revenues transferred from the Motor Vehicle Fuel Account, together with all other moneys in the fund, shall be available for the support of the division in implementing the program and for the planning, acquisition, development, construction, maintenance, administration, operation, and conservation of lands in the system. As used in this subdivision, "support of the division" includes functions performed outside the division by others on behalf of the division, including costs incurred on behalf of the division for personnel management and training, accounting and fiscal analysis, records, purchasing, public information activities, and legal services. "Support of the division" does not include any costs incurred by, or attributable to, the director

or the director's immediate staff or their salaries.

5090.62. No money in the fund may be encumbered for the planning, development, maintenance, operation, administration, or conservation of any natural or cultural preserve or any state wilderness classified pursuant to subdivision (c) of Section 5090.43, except that the cost of erecting fences or barriers and posting and otherwise designating a preserve or wilderness may be met from money appropriated from the fund if that cost is incurred prior to, or contemporaneously with, the opening of the state vehicular recreation area to public use.

5090.63. This article shall become operative on July 1, 1983.

Article 7. Termination

5090.70. This chapter 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. 12. Division 7.8 (commencing with Section 8700) of the Public Resources Code is repealed.

SEC. 13. Section 38001 of the Vehicle Code is amended to read:

38001. (a) Except as otherwise provided, the provisions of this division shall apply to off-highway motor vehicles, as defined in Section 38006, on lands, other than a highway, which are open and accessible to the public, except private lands under the immediate control of the owner or his agent where permission is required and has been granted to operate a motor vehicle. For the purposes of this division, the term "highway" does not include fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted.

(b) Privately owned and maintained parking facilities that are generally open to the public are exempt from the provisions of this division, unless the facilities are specifically declared subject to the provisions of this division by the procedure specified in Section 21107.8.

SEC. 14. Section 38225 of the Vehicle Code is amended to read:

38225. (a) A service fee of five dollars ($5) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee specified in subdivision (a), a special fee of six dollars ($6) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device. All fees received by the department pursuant to this subdivision, and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation, shall be deposited in the Off-Highway Vehicle Fund, which is hereby created. There shall be a separate

reporting of special fee revenues by vehicle type, including four-wheeled vehicles, three-wheelers, motorcycles, and snowmobiles. All money in the fund is continuously appropriated for expenditure by the Department of Parks and Recreation for the purposes specified in Article 6 (commencing with Section 5090.60) of Chapter 1.25 of Division 5 of the Public Resources Code.

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. Any unencumbered funds remaining in the Off-Highway Vehicle Fund on January 1, 1988, shall be transferred to the General Fund.

SEC. 15. Section 38225 is added to the Vehicle Code, to read:

38225. A service fee of five dollars ($5) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

This section shall become operative January 1, 1988.

SEC. 16. Section 42204 of the Vehicle Code is amended to read:

42204. Notwithstanding any other provisions of law, 50 percent of all fines and forfeitures collected for violations of Division 16.5 (commencing with Section 38000) shall be deposited in the Off-Highway Vehicle Fund for expenditure pursuant to Article 6 (commencing with Section 5090.60) of Chapter 1.25 of Division 5 of the Public Resources Code, and 50 percent of such fines and forfeitures shall be deposited and distributed in the same manner as specified in Section 42201.5.

SEC. 17. For the 1982–83 fiscal year only, no funds shall be encumbered for the Off-Highway Motor Vehicle Recreation Commission in excess of the amount budgeted for the support of the Off-Highway Motor Vehicle Recreation Advisory Committee, and no funds may be encumbered for the Division of Off-Highway Motor Vehicle Recreation in excess of the amount budgeted for the support of activities of the Department of Parks and Recreation and the Office of Off-Highway Motor Vehicle Recreation relating to the recreational use of off-highway motor vehicles.

CHAPTER 995

An act to convey certain tide and submerged lands to the City of Brisbane.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. (a) There is hereby granted to the City of Brisbane, hereinafter referred to as the "trustee" all of the right, title, and interest of the State of California, held by the state by virtue of its sovereignty in and to all tide and submerged lands whether filled or unfilled, situated in the County of San Mateo and described in Section 13. Such lands shall be held by the trustee and its successors, in trust for the benefit of all the people of the state for purposes of commerce, navigation, and fisheries, and for other public purposes, including, but not limited to, preservation of the lands in their natural state for scientific study, open space, wildlife habitat, and recreational uses, as more particularly provided in this act.

(b) This grant is subject to the following express conditions:

(1) That the lands shall be used by the trustee and its successors, for purposes in which there is a general statewide interest. The use of the granted lands shall be in conformity with a general use proposal adopted by the trustee and reviewed and approved by the State Lands Commission, hereafter referred to as the "commission." Changes or amendments to the general use proposal shall be reviewed and approved by the commission as provided under Section 3.

(2) That the trustee or its successors shall not at any time grant, convey, give, or alienate the lands, or any part thereof, to any individual, firm, or corporation for any purposes whatsoever; provided, however, that the trustee or its successors may grant franchises thereon for limited periods, not exceeding 66 years for wharves and other public uses and purposes, may lease the lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which the lands are held, and may collect and retain rents and other revenues from such leases, franchises, and privileges under rules and regulations adopted in accordance with the provisions of Section 5.

Nothing contained in this paragraph shall be deemed to affect the validity or terms of any franchise granted by the trustee under Division 3 (commencing with Section 6001) of the Public Utilities Code, and any such franchise shall be effective with respect to the affected lands when title thereto passes to the trustee under this act.

(3) That in the management, conduct, operation, and control of the granted lands or any improvement, betterments, or structures thereon, the trustee or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(4) That the state shall have the right to use without charge, any transportation, landing, or storage improvements, betterments, or structures constructed upon the granted lands for any vessel or other watercraft or railroad owned or operated by the state.

(5) That there is reserved to the people of the State of California the absolute right to fish in the waters over the granted lands, with the right of convenient access to such waters over the lands for such purpose.

(6) That there is excepted and reserved to the state all remains of

archealogical and historical significance and all deposits of minerals, including, but not limited to, all substances specified in Section 6407 of the Public Resources Code, in the granted lands, and the right to prospect for, mine, and remove such deposits from the lands.

(7) That the trustee shall not authorize a capital outlay project, lease, or agreement for port facilities, such as marine terminals, pipelines, or other related energy facilities, on the granted lands without first requesting and receiving the approval, in writing, of the commission. Prior to approving any such capital outlay project, lease, or agreement, the commission shall consult with other governmental agencies and shall determine that the project is in and for the best interest of the people of the state and consistent with provisions of law.

SEC. 2. (a) On or before September 30 of every succeeding fifth year, commencing on September 30, 1987, the trustee shall submit a report of its utilization of the granted lands for each immediately preceding five-calendar-year period ending with June 30 of the calendar year in which the report is required to be submitted.

(b) The report required by this section shall include all of the following:

(1) A general description of the uses to which the granted lands have been placed during the period covered by the report.

(2) A list of the owners and holders of leases, permits, and franchises granted or issued by the trustee, which list shall specify, as to each such owner or holder:

(A) The use to which the granted lands have been placed by the owner or holder.

(B) The consideration provided for in each such lease, permit, or franchise and the consideration actually received by the trustee for the lease, permit, or franchise granted or issued.

(C) An enumeration of the restrictions which the trustee has placed on the use of the granted lands and each area thereof for the period covered by the report.

SEC. 3. (a) On or before January 1, 1985, the trustee shall submit to the commission a general use proposal indicating details of intended development, preservation, or other use of the granted lands, and covering a period of not less than five years.

(b) The general use proposal may consist of any plan, program, or other document which includes all of the following:

(1) A general description of the type of uses planned or proposed for the granted lands. The location of these land uses shall be shown on a map or aerial photograph.

(2) The projected statewide benefit to be derived from the planned or proposed uses of the granted lands, including, but not limited to, the financial benefit, the benefit to commerce, navigation, and fisheries, and the recreational, educational, or industrial benefit.

(3) The proposed method of financing the planned or proposed uses of the granted lands, including estimated capital costs, annual operating costs, and anticipated annual revenues.

(4) Estimated timetable for implementation of the general use proposal or any phase thereof.

(5) A description of how the trustee proposes to protect and preserve natural and manmade resources in connection with the use of the granted lands.

(c) The trustee shall submit to the commission all changes and amendments to the general use proposal.

(d) The commission shall review with reasonable promptness the general use proposal submitted by the trustee, and any changes or amendments, to determine that they are in accordance with the public trust obligation and the requirements of this act. On the basis of such review, the commission shall furnish the trustee with its formal recommendations.

SEC. 4. The trustee shall demonstrate good faith in carrying out the provisions of its general use proposal and amending it when necessary in accordance with Section 3. If the commission determines that the trustee has substantially failed to improve, restore, preserve, or maintain the granted lands, as required by the general use proposal, or has unreasonably delayed adopting such proposal, all right, title, and interest of the trustee in and to the granted lands shall revert to the state. All improvements, restoration, preservation, or maintenance of the granted lands shall be effected in accordance with the general use proposal.

SEC. 5. (a) The governing body of the trustee shall, within 180 days of the effective date of this act, submit to the commission for its approval, procedures, rules, and regulations to govern the issuance, renewal, or renegotiation of any lease of the granted lands, or any development thereon. These rules and regulations shall specify lease rates, the bases upon which the rates are established, lease terms and conditions, provision for renegotiation of rates and terms and assignments, and such other information as may be required by the commission.

(b) All leases, franchises, or agreements proposed, or entered into, by any trustee after the effective date of this section shall be consistent with the provisions of the general use proposal submitted by the trustee.

(c) Upon request, the trustee shall submit to the commission a copy of all leases, franchises, and agreements entered into, renewed, or renegotiated.

SEC. 6. The trustee shall, with the approval of the commission, establish accounting procedures whereby an accurate record of all revenues derived from the use of the granted lands and of all expenditures of any such revenues shall be maintained. The purpose of such requirement is to provide for the segregation of funds derived from the use of the granted lands in order to ensure that they are only expended to enhance the lands in accordance with the trust uses and purposes upon which the granted lands are held.

SEC. 7. Property acquired with such revenues shall be considered an asset of the trust and subject to the terms and

conditions of this act.

SEC. 8. Notwithstanding any other provision of law, the trustee shall, on or before October 1 of each year, cause to be made and filed with the commission a detailed statement of all revenue and expenditures thereof from the administration of the granted lands, including obligations incurred but not yet paid. This statement shall be in a form specified by the commission and shall cover the fiscal year preceding its submission.

SEC. 9. As to the expenditure of revenues for any single capital improvement on the granted lands involving an amount in excess of two hundred fifty thousand dollars ($250,000) in the aggregate, the trustee shall file with the commission a detailed description of the capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith. Within 90 days after the time of such filing, the commission shall determine, whether such capital improvement is in the statewide interest and benefit and is consistent with the conditions of this act. The commission may request the opinion of the Attorney General on the matter; and if it does so, a copy of that opinion shall be delivered to the trustee with the notice of its determination. In the event the commission notifies the trustee that the capital improvement is not authorized, the trustee shall not disburse any revenue for, or in connection with, the capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The trustee is authorized to bring suit against the state for the purpose of securing such an order or judgment, which suit shall have priority over all other civil matters. Service shall be made upon the executive officer of the commission and the Attorney General, and the Attorney General shall defend the state in that suit. If judgment is given against the state in the suit, no costs may be recovered.

SEC. 10. On June 30, 1985, and at the end of every third fiscal year thereafter, that portion of the trustee's tidelands trust revenues in excess of two hundred fifty thousand dollars ($250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or maintenance of tidelands trust activities shall be deemed excess revenues; provided, however, that any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenue. Capital improvements of the granted lands made for purposes authorized by this act may be considered as expenditures for the purpose of determining excess revenues.

The excess revenues, as determined pursuant to this section, shall be allocated as follows: 85 percent shall be transmitted to the State Treasurer for deposit in the General Fund in the State Treasury; and 15 percent to the trustee for expenditures consistent with the provisions of this act.

SEC. 11. The commission shall, from time to time, institute a

formal inquiry to determine that the terms and conditions of this act, and amendments thereto, have been complied with, and that all other applicable provisions of law concerning the granted lands are being complied with in good faith.

SEC. 12. The provisions of Section 6359 of the Public Resources Code shall not apply to this act.

SEC. 13. The lands granted in Section 1 are those salt marsh, tidelands, and submerged lands described as follows:

All that certain real property situated in the State of California, County of San Mateo, City of Brisbane, described as follows:

PARCEL A—Marina Basin:

A portion of Section 14, T.3S, R.5W., M.D.M., more particularly described as follows:

BEGINNING at a point that bears East, 1980 feet and South, 2640 feet from the common corner to Sections 10, 11, 14 and 15, such point also being the southeast corner of Tide Lot 11 in Section 14, T.3S., R.5W., M.D.B. & M., as shown on Map No. 1 of Salt Marsh and Tide Lands, situate in the County of San Mateo, State of California, prepared by order of the Board of Tideland Commissioners under the authority and in accordance with the provisions of an act entitled "An Act Supplementary to and Amendatory of an Act Entitled ' An Act to Survey and Dispose of Certain Salt Marsh and Tide Lands Belonging to the State, approved March Thirtieth, Eighteen Hundred and Sixty Eight, approved April 1, 1870' "; thence from that point of beginning North, 2640 feet along the easterly line of such Lots 11 and 6 of such Map No. 1; thence East, 660 feet; thence South, 2640 feet; thence West, 660 feet to the point of beginning. Containing 40 acres more or less.

PARCEL B—Approach Channel:

BEGINNING at a point that bears East, 2640 feet and South, 2640 feet from the above-mentioned corner common to Sections 10, 11, 14 and 15, such point being 660 feet east of the southeast corner of Tide Lot 11 in Section 14, T.3S, R.5W, M.D.B. & M., as shown on Map of Map No. 1 of Salt Marsh and Tide Lands, situate in the County of San Mateo, State of California, prepared by order of the Board of Tideland Commissioners under the Authority and in accordance with the provisions of an act entitled "An Act Supplementary to and Amendatory of an Act Entitled—An Act to Survey and Dispose of Certain Salt Marsh and Tide Lands Belonging to the State of California, approved March Thirtieth, Eighteen Hundred and Sixty-Eight, approved April 1, 1870"; thence from that point of beginning, South, 150 feet; thence S 45° E, 680 feet; thence N 72° E, 2,975 feet; thence South, 157.72 feet; thence S 72° W, 3,074.29 feet; thence N 45° W, 758.57 feet; thence North, 282.84 feet; thence East, 150 feet to the point of beginning.

EXCEPTING THEREFROM those interests-in-land transferred in trust to the City of South San Francisco by virtue of Chapter 345 of the Statutes of 1913, as amended.

PARCEL C—Portion of BTLC Lots, 6, 7, 10 and 11:

BEGINNING at the point of beginning of the above described Parcel "A" being the southeast corner of Tide Lot 11, thence West, 150 feet; thence North, 130 feet; thence East, 40 feet; thence North, 130 feet; West, 220 feet; North, 130 feet; West, 100 feet; thence N 68° 33' 08" W, 300.83 feet; thence North, 800 feet; thence N 68° 33' 08" E, 300.83 feet; thence East, 320 feet; thence North, 700 feet; thence East, 110 feet to the easterly line of the above-mentioned Board of Tideland Commissioners' Tide Lot 6; thence South, 2110 feet along the easterly line of Tide Land Lots 6 and 11 to the point of beginning.

EXCEPTING THEREFROM those interests-in-land, if any, which might have passed by virtue of a Board of Tideland Commissioners' deed for Tide Land Lots 6, 7, 10, and 11, Section 14, T.3S., R.5W., M.D.M., as those lots are shown on "Map No. 1 of Salt Marsh and Tide Lands," situate in the County of San Mateo.

PARCEL D—Roadway Easement:

A 50-foot wide strip of land for a road Right-of-Way through Tideland Lots 9, 10, and 11 in Section 14, and Lot 16 in Section 15, T.3S., R.5W., M.D.M., as those lots are shown on "Map No. 1 of Salt Marsh and Tide Lands situate in the County of San Mateo."

EXCEPTING THEREFROM those interests-in-land, if any, which might have passed by virtue of the Board of Tideland Commissioners' deeds to:

(1) Emerson Corville for such tideland Lot 11;

(2) J. A. Drinkhouse for such tideland Lots 9 and 10;

(3) A. J. Bryant for such tideland Lot 16.

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 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 996

An act to amend Sections 44269, 44332.5, and 44339 of, and to add Section 44267.5 to, the Education Code, relating to schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 44267.5 is added to the Education Code, to read:

44267.5. (a) The minimum requirements for a services credential with a specialization in health for a school nurse are all of

the following:

(1) A baccalaureate or higher degree from an accredited institution.

(2) A valid California license as a registered nurse.

(3) One year of course work beyond the baccalaureate degree in a program approved by the commission.

(b) The period for which a services credential with a specialization in health for a school nurse is valid, shall be as follows:

(1) For a preliminary credential, pending completion of the one year of course work beyond the baccalaureate degree in a program approved by the commission, five years.

(2) For the professional credential, after completion of requirements specified by the commission, five years.

(c) The services credential with a specialization in health for a school nurse shall authorize the holder to perform, at grades 12 and below, the health services approved by the commission and designated on the credential.

SEC. 2. Section 44269 of the Education Code is amended to read:

44269. The commission may issue a services credential authorizing service as a librarian upon completion of specialized preparation as required by the commission.

The standards for these credentials are a baccalaureate degree or higher degree from an institution approved by the commission, a valid teaching credential and such specialized and professional preparation as the commission may require.

SEC. 3. Section 44332.5 of the Education Code is amended to read:

44332.5. (a) A school district which may issue warrants pursuant to Section 42647 may, at its discretion, provide for the registration of any valid certification or other document authorizing the holder thereof to serve in a position requiring certification qualifications as an employee of the school district.

(b) During any period when summary criminal history information is not available from the Federal Bureau of Investigation, no applicant for an initial credential, certificate, or permit shall be employed in a position requiring certification qualifications until he or she has met the minimum requirements for a temporary certificate of clearance. A temporary certificate of clearance or a credential, certificate, or permit authorizing service in the public schools shall be issued when the applicant has:

(1) Made full disclosure of all facts necessary to establish his or her true identity.

(2) Made a statement under penalty of perjury that he or she has not been convicted of a crime which would constitute grounds for the denial of the credential, permit, or certificate applied for.

An applicant shall not be required to disclose, and the Committee of Credentials shall not inquire into or consider, any acts or omissions not related to the applicant's fitness to teach or to perform other duties for which he or she is certificated, or which is related to his

or her competence to perform the duties authorized by his or her credential.

(3) Paid to the Commission for Teacher Preparation and Licensing the amount of twelve dollars ($12) or the fees or costs which have been or will be assessed by the Federal Bureau of Investigation for the issuance of its summary criminal history of the applicant when this information is once again made available to the commission. The fees authorized by this paragraph shall be applicable to all credentials, permits, and certificates which were applied for or issued after October 1, 1981.

(c) Upon receipt of a statement from the Federal Bureau of Investigation that it has no summary criminal history information on the applicant, or upon receipt of the summary criminal history information and clearance by the Committee of Credentials, a temporary certificate of clearance shall be converted to a regular certificate of clearance.

SEC. 4. Section 44339 of the Education Code is amended to read:

44339. (a) The commission shall adopt, in addition to any other regulations authorized by law, regulations requiring every applicant for a credential, or for the renewal of a credential, to submit reasonable evidence of identification and good moral character.

(b) The adopted rules and regulations shall specify that an applicant shall not be required to disclose, and the Committee of Credentials shall not inquire into or consider, any acts or omissions not related to the applicant's fitness to teach or perform other duties for which he or she is certificated, or which is related to his or her competence to perform the duties authorized by his or her credential.

(c) The adopted rules and regulations shall also prescribe the notice which shall be supplied to each applicant on the application form, which shall include the following information:

(1) The offenses which constitute grounds for the mandatory denial or revocation of a credential.

(2) The offenses for which the commission is authorized to deny or revoke a credential, depending upon the degree of rehabilitation or requalification demonstrated by the applicant.

(3) The standards under which the commission determines that it shall not investigate or pursue offenses which are not clearly related to an applicant's fitness or competence to teach or perform other certificated services.

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 provide a system for the identification of persons who, because of bad moral character, should be denied credentials, permits, or certificates authorizing service in the public schools, and to provide the funds necessary for its implementation, it is necessary that this act take effect immediately.

CHAPTER 997

An act to amend Sections 15511, 15512, 15515, 15521, 15522, 15523, 15524, 15525, 15527, 15528, 15531, 15532, 15533, 15534, 15535, 15536, 15537, 15541, 15542, 15551, 15552, 15554, 15561, 15562, 15564, 15565, 15566, 15574, 15575, 15581, 15582, 15583, 15584, 15585, 15592, 15593, 15595, 15601, 15602, 15612, 15613, and 15614 of the Corporations Code, to amend Section 12209 of the Government Code, and to amend Section 8 of Chapter 807 of the Statutes of 1981, relating to limited partnerships.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 15511 of the Corporations Code is amended to read:

15511. As used in this chapter, unless the context otherwise requires:

(a) "Acknowledged" means that an instrument is either of the following:

(1) Formally acknowledged as provided in Article 3 (commencing with Section 1180) of Chapter 4 of Title 4 of Part 4 of Division 2 of the Civil Code, or

(2) Accompanied by a declaration in writing signed by the person executing it that the declarant is that person and that the instrument is the act and deed of the person executing it.

Any certificate of acknowledgment taken without this state before a notary public or a judge or clerk of a court of record having an official seal need not be further authenticated.

(b) "Capital account" of a partner, unless otherwise provided in the partnership agreement, means the amount of the capital interest of that partner in the partnership consisting of that partner's original contribution, as (1) increased by any additional contributions and by that partner's share of the partnership's profits and (2) decreased by any distribution to that partner and by that partner's share of the partnership's losses.

(c) "Certificate of limited partnership" or "certificate" means the certificate referred to in Section 15521, and the certificate as amended.

(d) "Contribution" means any money, property or services rendered, or a promissory note or other binding obligation to contribute money or property, or to render services as permitted in this chapter, which a partner contributes to a limited partnership as capital in that partner's capacity as a partner pursuant to an agreement between the partners, including an agreement as to value.

(e) "Distribution" means the transfer of money or property by a

partnership to its partners without consideration.

(f) "Foreign limited partnership" means a partnership formed under the laws of any state other than this state or under the laws of a foreign country and having as partners one or more general partners and one or more limited partners (or their equivalents under any name).

(g) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement or a person who has been admitted as a general partner pursuant to Section 15541.

(h) "Interests of limited partners" means the aggregate interests of all limited partners in the current profits derived from business operations of the partnership.

(i) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement or an assignee of a limited partnership interest who has become a limited partner pursuant to Section 15574.

(j) "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(k) "Mail," unless otherwise provided in the partnership agreement, means first-class mail, postage prepaid, unless registered mail is specified. Registered mail includes certified mail.

(*l*) "Majority-in-interest of the limited partners," unless otherwise provided in the partnership agreement, means more than 50 percent of the interests of limited partners.

(m) "Partner" means a limited or general partner.

(n) "Partnership agreement" means any valid written agreement of the partners as to the affairs of a limited partnership and the conduct of its business, including all amendments thereto.

(o) "Person" means an individual, partnership, limited partnership (domestic or foreign), trust, estate, association, corporation, or other entity.

(p) "Proxy" means a written authorization signed by a partner or the partner's attorney-in-fact giving another person the power to vote with respect to the interest of that partner. "Signed," for the purpose of this section, means the placing of the partner's name on the proxy (whether by manual signature, typewriting, telegraphic transmission, or otherwise) by the partner or partner's attorney-in-fact.

(q) "Return of capital," unless otherwise provided in the partnership agreement, means any distribution to a partner to the extent that the partner's capital account, immediately after the distribution, is less than the amount of that partner's contributions to the partnership as reduced by prior distributions which were a return of capital.

(r) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto

Rico.

(s) "Time a notice is given or sent," unless otherwise expressly provided, means the time a written notice to a partner or the limited partnership is deposited in the United States mails; or the time any other written notice is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient; or the time any oral notice is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the recipient.

SEC. 2. Section 15512 of the Corporations Code is amended to read:

15512. The name of each limited partnership as set forth in its certificate of limited partnership:

(a) Shall contain without abbreviation the words "a California limited partnership" at the end of its name.

(b) May not contain the name of a limited partner unless (1) it is also the name of a general partner or the corporate name of a corporate general partner, or (2) the business of the limited partnership had been carried on under that name before the admission of that limited partner.

(c) May not be the same as, or resemble so closely as to tend to deceive (1) a name which is under reservation for another limited partnership pursuant to Section 15513 or (2), the name of any limited partnership which has previously filed a certificate pursuant to Section 15521 or of a foreign limited partnership registered pursuant to Section 15592.

(d) May not contain the words "bank," "insurance," "trust" or "trustee."

SEC. 3. Section 15515 of the Corporations Code is amended to read:

15515. Each limited partnership shall keep at the office referred to in subdivision (a) of Section 15514 all of the following:

(a) A current list of the full name and last known business or residence address of each partner set forth in alphabetical order together with the contribution and the share in profits and losses of each partner.

(b) A copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed.

(c) Copies of the limited partnership's federal, state, and local income tax or information returns and reports, if any, for the six most recent taxable years.

(d) Copies of the original partnership agreement and all amendments thereto.

(e) Financial statements of the limited partnership for the six most recent fiscal years.

(f) The partnership's books and records for at least the current and past three fiscal years.

SEC. 4. Section 15521 of the Corporations Code is amended to read:

15521. (a) In order to form a limited partnership the partners shall execute a partnership agreement and the general partners shall execute, acknowledge and file a certificate of limited partnership. The certificate shall be filed in the office of, and on a form prescribed by, the Secretary of State and shall set forth all of the following:

(1) The name of the limited partnership.

(2) (A) The street address of the principal executive office.

(B) If the principal executive office is not in this state, the street address of an office in this state.

(3) The names and addresses of the general partners.

(4) The name and address of the agent for service of process required to be maintained by Section 15514, unless a corporate agent is designated, in which case only the name of such agent shall be set forth.

(5) The term for which the partnership is to exist.

(6) Any other matters the general partners determine to include.

(b) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the Secretary of State.

(c) For all purposes, a copy of the certificate of limited partnership duly certified by the Secretary of State is conclusive evidence of the formation of a limited partnership and prima facie evidence of its existence.

(d) A limited partnership may record in the office of the county recorder of any county in this state a certified copy of the certificate of limited partnership, or any amendment thereto, which has been filed by the Secretary of State. A foreign limited partnership may record in the office of the county recorder of any county in the state a certified copy of the application for registration, together with the certificate of registration, referred to in Section 15592, or any amendment thereto, which has been filed by the Secretary of State. The recording shall create a conclusive presumption in favor of any bona fide purchaser or encumbrancer for value of the partnership real property located in the county in which the certified copy has been recorded, that the persons named as general partners therein are the general partners of the partnership named and that they are all of the general partners of the partnership, and the recording shall also create such other presumptions as provided in Section 15010.5.

SEC. 5. Section 15522 of the Corporations Code is amended to read:

15522. (a) A certificate of limited partnership is amended by filing a certificate of amendment thereto executed and acknowledged by all general partners (unless a lesser number is provided in the certificate of limited partnership) in the office of, and on a form prescribed by, the Secretary of State. The certificate

of amendment shall set forth all of the following:

(1) The name and the Secretary of State's file number of the limited partnership.

(2) The text of the amendment to the certificate.

(b) The general partners shall cause to be filed, within 30 days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of any of the following events:

(1) A change in name of the limited partnership.

(2) A change in either of the following:

(A) The street address of the principal executive office.

(B) If the principal executive office is not in this state, the street address of an office in this state.

(3) A change in the address of or the withdrawal of a general partner, or a change in the address of the agent for service of process, unless a corporate agent is designated, or appointment of a new agent for service of process.

(4) The admission of a general partner and that partner's address.

(5) The discovery by any of the general partners of any false or erroneous material statement contained in the certificate or any amendment thereto.

(c) A certificate of limited partnership may also be amended at any time in any other respect that the general partners determine.

(d) Any general partner, or any limited partner executing a certificate pursuant to Section 15533 or a certificate of amendment pursuant to Section 15525 or a certificate of dissolution pursuant to paragraph (1) of subdivision (a) of Section 15523 or a certificate of cancellation of certificate of limited partnership pursuant to paragraph (1) of subdivision (b) of Section 15523, shall be liable for any statement materially inconsistent with the partnership agreement or any material misstatement of fact contained in the certificate or the certificate of amendment if the partner knew or should have known that the statement was false when made or became false and an amendment required by subdivision (b) was not filed, and the person suffering the loss relied on the statement or misstatement.

(e) No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subdivision (b) if the amendment is filed within the time specified in subdivision (b).

(f) Except as provided in subdivision (d), no limited partner shall incur any liability for any misstatement contained in the certificate or for the failure to file an amendment to a certificate of limited partnership pursuant to subdivision (b).

SEC. 6. Section 15523 of the Corporations Code is amended to read:

15523. (a) (1) The general partners shall cause to be filed in the office of, and on a form prescribed by, the Secretary of State, a certificate of dissolution upon the dissolution of the limited

partnership pursuant to Article 8 (commencing with Section 15581), unless the event causing the dissolution is that specified in subdivision (c) of Section 15581, in which case the limited partners conducting the winding up of the partnership affairs under Section 15583 shall have the obligation to file the certificate of dissolution.

(2) The certificate of dissolution shall set forth all of the following:

(A) The name of the limited partnership and the Secretary of State's file number.

(B) The event causing, and the date of, the dissolution.

(b) (1) The general partners shall cause to be filed in the office of, and on a form prescribed by, the Secretary of State, a certificate of cancellation of certificate of limited partnership upon the completion of the winding up of the affairs of the limited partnership, pursuant to Article 8 (commencing with Section 15581), unless the event causing the dissolution is that specified in subdivision (c) of Section 15581, in which case the limited partners conducting the winding up of the partnership affairs under Section 15583 shall have the obligation to file the certificate of cancellation of certificate of limited partnership.

(2) The certificate of cancellation of certificate of limited partnership shall set forth all of the following:

(A) The name of the limited partnership and the Secretary of State's file number.

(B) Any other information the partners filing the certificate of cancellation of certificate of limited partnership determine to include.

SEC. 7. Section 15524 of the Corporations Code is amended to read:

15524. (a) Each certificate required by this article to be filed in the office of the Secretary of State shall be executed in the following manner:

(1) A certificate referred to in Section 15521 shall be executed by all general partners, unless filed by a limited partner pursuant to Section 15533.

(2) A certificate of amendment shall be executed by all general partners (or a lesser number provided in the certificate of limited partnership) and by each general partner designated in the certificate as a new partner, unless filed by a limited partner pursuant to Section 15525.

(3) A certificate of dissolution shall be executed by all general partners (or a lesser number provided in the certificate of limited partnership) unless filed by a limited partner pursuant to paragraph (1) of subdivision (a) of Section 15523.

(4) A certificate of cancellation of certificate of limited partnership shall be executed by all general partners (or a lesser number provided in the certificate of limited partnership) unless filed by a limited partner pursuant to paragraph (1) of subdivision (b) of Section 15523.

(5) A certificate filed by a limited partner pursuant to Section

15533 or a certificate of amendment filed by a limited partner pursuant to Section 15525 or a certificate of dissolution filed by a limited partner pursuant to paragraph (1) of subdivision (a) of Section 15523 or a certificate of cancellation of certificate of limited partnership filed by a limited partner pursuant to paragraph (1) of subdivision (b) of Section 15523 shall be signed by the limited partner.

(b) Any person may execute a certificate referred to in Section 15521 or any certificate of amendment thereto by an attorney-in-fact.

SEC. 8. Section 15525 of the Corporations Code is amended to read:

15525. If a general partner required by this article to execute or file a certificate of amendment fails after demand to do so within a reasonable time or refuses to do so, any other partner may prepare, execute, and file with the Secretary of State an appropriate certificate of amendment.

SEC. 9. Section 15527 of the Corporations Code is amended to read:

15527. (a) In addition to the provisions of Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, process may be served upon limited partnerships and foreign limited partnerships as provided in this section.

(b) Personal service of a copy of any process against the limited partnership or the foreign limited partnership by delivery (1) to any individual designated by it as agent or, if a limited partnership, to any general partner or (2) if the designated agent or, if a limited partnership, general partner is a corporation, to any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 at the office of the corporate agent or to any officer of the general partner, shall constitute valid service on the limited partnership or the foreign limited partnership. No change in the address of the agent for service of process or appointment of a new agent for service of process shall be effective (1) for a limited partnership until an amendment to the certificate of limited partnership is filed pursuant to paragraph (3) of subdivision (b) of Section 15522 or (2) for a foreign limited partnership until an amendment to the application for registration is filed pursuant to Section 15595.

(c) (1) If an agent for service of process has resigned and has not been replaced or if the agent designated cannot with reasonable diligence be found at the address designated for personal delivery of the process, and it is shown by affidavit to the satisfaction of the court that process against a limited partnership or foreign limited partnership cannot be served with reasonable diligence upon the designated agent or, if a foreign limited partnership, upon any general partner by hand in the manner provided in Section 415.10, subdivision (a) of Section 415.20 or subdivision (a) of Section 415.30, of the Code of Civil Procedure, the court may make an order that the service shall be made upon a domestic limited partnership which

has filed a certificate pursuant to Section 15521 or upon a registered foreign limited partnership by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing the service. Service in this manner shall be deemed complete on the 10th day after delivery of the process to the Secretary of State.

(2) Upon receipt of any such copy of process and the fee therefor, the Secretary of State shall give notice of the service of the process to the limited partnership or foreign limited partnership, at its principal executive office, by forwarding to that office, by registered mail with request for return receipt, the copy of the process.

(3) The Secretary of State shall keep a record of all process served upon the Secretary of State under this chapter and shall record therein the time of service and the Secretary of State's action with reference thereto. A certificate under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice thereof to the limited partnership or foreign limited partnership, and the forwarding of the process pursuant to this section, shall be competent and prima facie evidence of the matters stated therein.

(d) (1) The certificate of a limited partnership and the application for registration of a foreign limited partnership shall designate, as the agent for service of process, an individual residing in this state or a corporation which has complied with Section 1505 and whose capacity to act as an agent has not terminated. If an individual is designated, the statement shall set forth that person's complete business or residence address in this state.

(2) An agent designated for service of process may file with the Secretary of State a signed and acknowledged written statement of resignation as an agent. Thereupon the authority of the agent to act in that capacity shall cease and the Secretary of State forthwith shall give written notice of the filing of the statement of resignation by mail to the limited partnership or foreign limited partnership addressed to its principal executive office.

(3) If an individual who has been designated agent for service of process dies or resigns or no longer resides in the state or if the corporate agent for that purpose resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business, has its corporate rights, powers and privileges suspended or ceases to exist, (A) the limited partnership shall promptly file an amendment to the certificate pursuant to paragraph (3) of subdivision (b) of Section 15522 designating a new agent or (B) the foreign limited partnership shall promptly file an amendment to the application for registration pursuant to Section 15595.

SEC. 10. Section 15528 of the Corporations Code is amended to read:

15528. Upon receipt of any instrument accompanied by the fee prescribed therefor in the Government Code by the Secretary of State for filing pursuant to this chapter, it shall be filed by, and in the

office of, the Secretary of State and the date of filing endorsed thereon. The date of filing shall be the date the instrument is received by the Secretary of State unless withheld from filing for a period of time not to exceed 90 days pursuant to a request by the party submitting it for filing or unless in the judgment of the Secretary of State the filing is intended to be coordinated with the filing of some other document which cannot be filed. The Secretary of State shall file a document as of any requested future date not more than 90 days after its receipt, including a Saturday, Sunday or legal holiday, if that document is received in the Secretary of State's office at least one business day prior to the requested date of filing. Upon receipt and after filing of any document under this chapter the Secretary of State may microfilm or reproduce by other techniques any such filings or documents and destroy the original filing or document. The microfilm or other reproduction of any document under the provision of this section shall be admissible in any court of law.

SEC. 11. Section 15531 of the Corporations Code is amended to read:

15531. (a) After the filing of a certificate referred to in Section 15521, a person may become a limited partner:

(1) In the case of a person acquiring a limited partnership interest directly from the limited partnership, upon the compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of the partners.

(2) In the case of an assignee of a partnership interest, upon compliance with subdivision (a) of Section 15574.

(b) In each case under subdivision (a), the person acquiring the partnership interest shall be added by the general partners as a limited partner to the list required by subdivision (a) of Section 15515.

SEC. 12. Section 15532 of the Corporations Code is amended to read:

15532. (a) Except as provided in subdivision (d), a limited partner is not liable for any obligation of a limited partnership unless named as a general partner in the certificate or, in addition to the exercise of the rights and powers of a limited partner, the limited partner participates in the control of the business. If a limited partner participates in the control of the business without being named as a general partner, that partner is nevertheless not liable to persons who transact business with the limited partnership unless they do so with actual knowledge of that partner's participation in control and reasonably believing that partner to be a general partner.

(b) A limited partner does not participate in the control of the business within the meaning of subdivision (a) solely by doing one or more of the following:

(1) Being a contractor for or an agent or employee of the limited partnership or of a general partner, or an officer, director or shareholder of a corporate general partner.

(2) Consulting with and advising a general partner with respect to the business of the limited partnership.

(3) Acting as surety for the limited partnership or guaranteeing one or more specific debts of the limited partnership.

(4) Approving or disapproving an amendment to the partnership agreement.

(5) Voting on one or more of the following matters:

(A) The dissolution and winding up of the limited partnership.

(B) The sale, exchange, lease, mortgage, pledge, or other transfer of all or a substantial part of the assets of the limited partnership other than in the ordinary course of its business.

(C) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business.

(D) A change in the nature of the business.

(E) Transactions in which the general partners have an actual or potential conflict of interest with the limited partners or the partnership.

(F) The removal of a general partner.

(G) The admission of a general partner.

(H) Any election to continue the business of the limited partnership other than after the retirement, death, or insanity of a general partner.

(I) Any election to continue the business of the limited partnership after the retirement, death, or insanity of a general partner.

(6) Winding up the partnership pursuant to Section 15583.

(7) Executing and filing a certificate pursuant to Section 15533 or a certificate of amendment pursuant to Section 15525 or a certificate of dissolution pursuant to paragraph (1) of subdivision (a) of Section 15523 or a certificate of cancellation of certificate of limited partnership pursuant to paragraph (1) of subdivision (b) of Section 15523.

(8) Serving on an audit committee or committee performing the functions of an audit committee.

(c) The enumeration in subdivision (b) does not mean that any other conduct or the possession or exercise of any other power by a limited partner constitutes participation by the limited partner in the control of the business of the limited partnership.

(d) A limited partner who knowingly permits that partner's name to be used in the name of the limited partnership, except under circumstances permitted by subdivision (b) of Section 15512, is liable for all obligations of the limited partnership to persons without actual knowledge or notice that the limited partner is not a general partner.

SEC. 13. Section 15533 of the Corporations Code is amended to read:

15533. (a) Except as provided in subdivision (b), if a certificate of limited partnership has not been filed, a person who makes a contribution to the purported limited partnership and in good faith believes that that person has become a limited partner is not liable

for the obligations of the purported limited partnership, if, on ascertaining that the certificate has not been filed and after a failure of the general partner or partners to file the certificate within a reasonable time after request, that person promptly files the certificate of limited partnership.

(b) A person who makes a contribution to the purported limited partnership and in good faith believes that that person has become a limited partner is liable only to any third party who transacted business with the purported limited partnership before the certificate is filed and who reasonably believed that the person was a general partner at the time of the transaction.

SEC. 14. Section 15534 of the Corporations Code is amended to read:

15534. (a) Upon the request of a limited partner, the general partners shall promptly deliver to the limited partner, at the expense of the partnership, a copy of the information required to be maintained by subdivision (a), (b), or (d) of Section 15515.

(b) Each limited partner has the right upon reasonable request to each of the following:

(1) Inspect and copy during normal business hours any of the partnership records required to be maintained by Section 15515.

(2) Obtain from the general partners, promptly after becoming available, a copy of the limited partnership's federal, state and local income tax or information returns for each year.

(c) In the case of any limited partnership with more than 35 limited partners:

(1) The general partners shall cause an annual report to be sent to each of the partners not later than 120 days after the close of the fiscal year. That report shall contain a balance sheet as of the end of the fiscal year and an income statement and statement of changes in financial position for the fiscal year.

(2) Limited partners representing at least 5 percent of the interests of limited partners may make a written request to a general partner for an income statement of the limited partnership for the initial three-month, six-month, or nine-month period of the current fiscal year ended more than 30 days prior to the date of the request and a balance sheet of the partnership as of the end of that period. The statement shall be delivered or mailed to the limited partners within 30 days thereafter.

(3) The financial statements referred to in this section shall be accompanied by the report thereon, if any, of the independent accountants engaged by the partnership or, if there is no such report, the certificate of a general partner of the partnership that such financial statements were prepared without audit from the books and records of the limited partnership.

(d) The general partners shall promptly furnish to a limited partner a copy of any amendment to the partnership agreement executed by a general partner pursuant to a power of attorney from the limited partner.

(e) The general partners shall send to each of the partners within 90 days after the end of each taxable year such information as is necessary to complete federal and state income tax or information returns, and, in the case of a limited partnership with 35 or fewer limited partners, a copy of the limited partnership's federal, state, and local income tax or information returns for the year.

(f) In addition to any other remedies, a court of competent jurisdiction may enforce the duty of making and mailing or delivering the information and financial statements required by this section and, for good cause shown, may extend the time therefor.

(g) In any action under this section, if the court finds the failure of the partnership to comply with the requirements of this section to have been without justification, the court may award an amount sufficient to reimburse the partners bringing the action for the reasonable expenses incurred by the partners, including attorneys' fees, in connection with the action or proceeding.

(h) Any waiver by a partner of the rights provided in this section shall be unenforceable.

SEC. 15. Section 15535 of the Corporations Code is amended to read:

15535. (a) The Attorney General, upon complaint that a limited partnership is failing to comply with the provisions of Section 15534, or to afford to the partners rights given to them in the partnership agreement, may in the name of the people of the State of California send to the principal executive office, as specified pursuant to paragraph (2) of subdivision (a) of Section 15521, notice of the complaint.

(b) If the answer of the limited partnership is not received within 30 days of the date the notice was transmitted, or if the answer is not satisfactory, and if the enforcement of the rights of the aggrieved persons by private civil action, by class action or otherwise, would be so burdensome or expensive as to be impracticable, the Attorney General may institute, maintain, or intervene in their suits, actions or proceedings in any court of competent jurisdiction or before any administrative agency for relief by way of injunction, the dissolution of entities, the appointment of receivers, or any other temporary, preliminary, provisional, or final remedies as may be appropriate to protect the rights of partners or to restore the position of the partners for the failure to comply with the requirements of Section 15534 or the partnership agreement. In any such action, suit, or proceeding there may be joined as parties all persons and entities responsible for or affected by the activity.

SEC. 16. Section 15536 of the Corporations Code is amended to read:

15536. The rights and duties of the partners in relation to the limited partnership shall be determined, subject to any provision in the partnership agreement to the contrary, by the following rules:

(a) No limited partner shall be required to make any additional contribution to the limited partnership.

(b) No limited partner shall have a priority over any other limited partner, as to return of contributions or as to compensation as a limited partner by way of income.

(c) The obligation of a partner to make a contribution or return money or property distributed in violation of this chapter may be compromised only by the written consent of all the partners.

(d) No limited partner shall have the right to receive property other than money upon any distribution.

(e) A partner may not be compelled to accept a distribution of any asset in kind from a limited partnership in lieu of a proportionate distribution of money being made to other partners.

(f) The limited partners shall have the right to vote on all matters specified in subparagraphs (A) to (H), inclusive, of paragraph (5) of subdivision (b) of Section 15532 and the actions specified therein may be taken by the general partners only with the affirmative vote of a majority in interest of the limited partners. The limited partners shall also have the right to vote on matters specified in subparagraph (I) of paragraph (5) of subdivision (b) of Section 15532 and that action may only be taken by the affirmative vote of all of the limited partners.

SEC. 17. Section 15537 of the Corporations Code is amended to read:

15537. (a) Meetings of partners may be held at any place within or without this state as may be stated in or fixed in accordance with the partnership agreement. If no other place is stated or so fixed, partners' meetings shall be held at the principal executive office of the partnership, or if the principal executive office is not in this state, at the street address of an office in this state as set forth in the certificate.

(b) A meeting of the partners may be called by the general partners or by limited partners representing more than 10 percent of the interests of limited partners for any matters on which the limited partners may vote.

(c) (1) Whenever partners are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10, nor more than 60, days before the date of the meeting to each partner entitled to vote at the meeting. The notice shall state the place, date, and hour of the meeting and the general nature of the business to be transacted, and no other business may be transacted.

(2) Notice of a partners' meeting or any report shall be given either personally or by mail or other means of written communication, addressed to the partner at the address of the partner appearing on the books of the partnership or given by the partner to the partnership for the purpose of notice, or, if no address appears or is given, at the place where the principal executive office of the partnership is located or by publication at least once in a newspaper of general circulation in the county in which the principal executive office is located. The notice or report shall be deemed to

have been given at the time when delivered personally or deposited in the mail or sent by other means of written communication. An affidavit of mailing of any notice or report in accordance with the provisions of this article, executed by a general partner, shall be prima facie evidence of the giving of the notice or report.

If any notice or report addressed to the partner at the address of the partner appearing on the books of the partnership is returned to the partnership by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the partner at the address, all future notices or reports shall be deemed to have been duly given without further mailing if they are available for the partner at the principal executive office of the partnership for a period of one year from the date of the giving of the notice or report to all other partners.

(3) Upon written request to the general partners by any person entitled to call a meeting of partners, the general partners immediately shall cause notice to be given to the partners entitled to vote that a meeting will be held at a time requested by the person calling the meeting, not less than 10, nor more than 60, days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the person entitled to call the meeting may give the notice or the superior court of the proper county shall summarily order the giving of the notice, after notice to the partnership giving it an opportunity to be heard. The procedure provided in subdivision (c) of Section 305 of the Corporations Code shall apply to the application. The court may issue any order as may be appropriate, including, without limitation, an order designating the time and place of the meeting, the record date for determination of partners entitled to vote, and the form of notice.

(d) When a partners' meeting is adjourned to another time or place, unless the partnership agreement otherwise requires and, except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the partnership may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 45 days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each partner of record entitled to vote at the meeting.

(e) The transactions of any meeting of partners, however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All waivers, consents, and approvals shall be filed with the partnership records or made a part of the minutes of the meeting. Attendance

of a person at a meeting shall constitute a waiver of notice of the meeting, except when the person objects, at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this chapter to be included in the notice but not so included, if the objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any meeting of partners need be specified in any written waiver of notice, unless otherwise provided in the partnership agreement, except as provided in subdivision (f).

(f) Any partner approval at a meeting, other than unanimous approval by those entitled to vote, pursuant to paragraph (5) of subdivision (b) of Section 15532 shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

(g) (1) Unless otherwise provided in the partnership agreement, a majority in interest of the limited partners represented in person or by proxy shall constitute a quorum at a meeting of partners.

(2) The partners present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough partners to leave less than a quorum, if any action taken (other than adjournment) is approved by the requisite percentage of interests of limited partners specified in this chapter or in the partnership agreement.

(3) In the absence of a quorum, any meeting of partners may be adjourned from time to time by the vote of a majority of the interests represented either in person or by proxy, but no other business may be transacted, except as provided in paragraph (2).

(h) Unless otherwise provided in the partnership agreement, any action which may be taken at any meeting of the partners may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by partners having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all entitled to vote thereon were present and voted. In the event the limited partners are requested to consent on a matter without a meeting, each partner shall be given notice of the matter to be voted upon in the same manner as described in subdivision (c). In the event any general partner, or limited partners representing more than 10 percent of the interests of the limited partners, request a meeting for the purpose of discussing or voting on the matter, the notice of a meeting shall be given in accordance with subdivision (c) and no action shall be taken until the meeting is held. Unless delayed in accordance with the provisions of the preceding sentence, any action taken without a meeting will be effective 15 days after the required minimum number of voters have signed the consent, however, the action will be effective immediately if all general partners and limited partners

representing at least 90 percent of the interests of the limited partners have signed the consent.

(i) The use of proxies in connection with this section will be governed in the same manner as in the case of corporations formed under the General Corporation Law.

(j) In order that the limited partnership may determine the partners entitled to notices of any meeting or to vote, or entitled to receive any distribution or to exercise any rights in respect of any other lawful action, the general partners, or limited partners representing more than 10 percent of the interests of limited partners, may fix, in advance, a record date, which is not more than 60 nor less than 10 days prior to the date of the meeting nor more than 60 days prior to any other action. If no record date is fixed:

(1) The record date for determining partners entitled to notice of or to vote at a meeting of partners shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held.

(2) The record date for determining partners entitled to give consent to partnership action in writing without a meeting shall be the day on which the first written consent is given.

(3) The record date for determining partners for any other purpose shall be at the close of business on the day on which the general partners adopt it, or the 60th day prior to the date of the other action, whichever is later.

(4) The determination of partners of record entitled to notice of or to vote at a meeting of partners shall apply to any adjournment of the meeting unless the general partners, or the limited partners who called the meeting, fix a new record date for the adjourned meeting, but the general partners, or the limited partners who called the meeting, shall fix a new record date if the meeting is adjourned for more than 45 days from the date set for the original meeting.

SEC. 18. Section 15541 of the Corporations Code is amended to read:

15541. Unless otherwise provided in the partnership agreement, after the filing of a certificate referred to in Section 15521, a general partner may be admitted only (a) with the written consent of each general partner in accordance with the provisions of subdivision (f) of Section 15536 or (b) with the written consent of each partner in accordance with the provisions of subdivision (c) of Section 15581.

SEC. 19. Section 15542 of the Corporations Code is amended to read:

15542. A person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

(a) The general partner withdraws from the limited partnership.

(b) The general partner is removed as a general partner.

(c) Unless otherwise provided in the partnership agreement, an order for relief against the general partner is entered under Chapter 7 of the federal bankruptcy law, or the general partner: (1) makes

a general assignment for the benefit of creditors, (2) files a voluntary petition under the federal bankruptcy law, (3) files a petition or answer seeking for that partner any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law, or regulation, (4) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against that partner in any proceeding of this nature, or (5) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of that partner's properties.

(d) Unless otherwise provided in the partnership agreement, 60 days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within 60 days after the appointment without that partner's consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of that partner's properties, the appointment is not vacated or stayed, or within 60 days after the expiration of any such stay, the appointment is not vacated.

(e) In the case of a general partner who is an individual, either of the following:

(1) The death of that partner.

(2) The entry by a court of competent jurisdiction of an order adjudicating the partner incompetent to manage the general partner's person or estate.

(f) Unless otherwise provided in the partnership agreement, in the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee, in which case the new trustee automatically becomes the new general partner).

(g) Unless otherwise provided in the partnership agreement, in the case of a general partner that is a separate partnership, the dissolution of the separate partnership.

(h) In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation.

(i) In the case of a general partner that is an estate, the distribution by the fiduciary of the estate's entire interest in the limited partnership.

SEC. 20. Section 15551 of the Corporations Code is amended to read:

15551. The contribution of a partner may be in money, property, or services rendered, or a promissory note or other obligation to contribute money or property or to render services. A limited partner may not make a contribution of an obligation to render future services in consideration of the receipt of a partnership interest.

SEC. 21. Section 15552 of the Corporations Code is amended to

read:

15552. Notwithstanding the compromise of a claim referred to in subdivision (c) of Section 15536, a person whose claim against a limited partnership arises before the receipt of notice of the compromise may enforce the original obligation.

SEC. 22. Section 15554 of the Corporations Code is amended to read:

15554. Distributions of the money or property of a limited partnership shall be made to the partners in the manner provided in the partnership agreement. If the partnership agreement does not so provide, distributions which are a return of capital shall be made in proportion to the contributions of each partner and distributions which are not a return of capital shall be made in proportion to the allocation of profits.

SEC. 23. Section 15561 of the Corporations Code is amended to read:

15561. Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before the withdrawal of that partner from the limited partnership and before the dissolution and winding up thereof, subject to the limitations contained in Section 15566, to the extent and at the times or upon the happening of the events specified in the partnership agreement.

SEC. 24. Section 15562 of the Corporations Code is amended to read:

15562. (a) A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and, in addition to any other remedies, shall have the right to offset the damages against any amounts otherwise distributable to the general partner. Unless otherwise provided in the partnership agreement, in the case of a partnership for a fixed term, a withdrawal by a general partner prior to the expiration of that term is a breach of the partnership agreement.

(b) Unless otherwise provided in the partnership agreement, and subject to the liability created under subdivision (a), a general partner who ceases to be a general partner under Section 15542 shall:

(1) Retain the same interest in that partner's capital account, profits, losses, and distributions, but that interest shall be that of a limited partner.

(2) Not be personally liable for partnership debts incurred after the person ceases to be a general partner.

(3) Be entitled to vote as a limited partner on all matters except the admission and compensation of a general partner.

(4) Have the partner's interest in profits, losses, and distributions reduced pro rata with all other partners to provide compensation, or an interest in the partnership, or both, to a new general partner.

SEC. 25. Section 15564 of the Corporations Code is amended to

read:

15564. Upon withdrawal, any withdrawing limited partner is entitled to receive any distribution to which that partner is entitled under the partnership agreement and, if not otherwise provided in the partnership agreement, the limited partner is entitled to receive, within a reasonable time after withdrawal, the fair value of the limited partner's interest in the limited partnership as of the date of withdrawal based upon the limited partner's right to share in distributions from the limited partnership.

SEC. 26. Section 15565 of the Corporations Code is amended to read:

15565. Subject to Section 15584, at the time a partner becomes entitled to receive a distribution, that partner has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

SEC. 27. Section 15566 of the Corporations Code is amended to read:

15566. A partner is obligated to return a distribution from a limited partnership to the extent that, after giving effect to the distribution, and notwithstanding the compromise of a claim referred to in subdivision (c) of Section 15536, all liabilities of the limited partnership, other than liabilities to partners on account of their interest in the limited partnership and liabilities as to which recourse of creditors is limited to specified property of the limited partnership, exceed the fair salable value of the partnership assets other than those assets which are subject to liabilities as to which recourse of creditors is so limited.

SEC. 28. Section 15574 of the Corporations Code is amended to read:

15574. (a) An assignee of a limited partnership interest may become a limited partner if and to the extent that (1) the partnership agreement so provides or (2) all partners consent.

(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of the assignor to make contributions as provided in Article 5 (commencing with Section 15551). However, the assignee is not obligated for liabilities unknown to the assignee at the time the assignee became a limited partner and which could not be ascertained from the partnership agreement.

(c) If an assignee of a limited partnership interest becomes a limited partner, the assignor is not released from the assignor's liability to the limited partnership under subdivision (d) of Section 15522, and Sections 15552 and 15566.

SEC. 29. Section 15575 of the Corporations Code is amended to read:

15575. If a limited partner who is an individual dies or a court of competent jurisdiction adjudges the limited partner to be

incompetent to manage the limited partner's person or property, the partner's executor, administrator, guardian, conservator, or other legal representative may exercise all the partner's rights for the purpose of settling the partner's estate or administering the partner's property.

SEC. 30. Section 15581 of the Corporations Code is amended to read:

15581. A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(a) At the time or upon the happening of events specified in the partnership agreement.

(b) Except as otherwise provided in the partnership agreement, written consent of all general partners and a majority in interest of the limited partners.

(c) A general partner ceases to be a general partner under Section 15542, unless (1) at the time there is at least one other general partner and the partnership agreement permits the business of the limited partnership to be continued by the remaining general partners, if any, and the partners do so, or (2) the partners agree in writing to continue the business of the limited partnership and to the admission of one or more new general partners pursuant to authority provided in the partnership agreement.

(d) Entry of a decree of judicial dissolution under Section 15582.

SEC. 31. Section 15582 of the Corporations Code is amended to read:

15582. Pursuant to an action filed by a partner, a court of competent jurisdiction may decree the dissolution of a limited partnership whenever any of the following occurs:

(a) It is not reasonably practicable to carry on the business in conformity with the partnership agreement.

(b) The general partners have been guilty of or have knowingly countenanced persistent and pervasive fraud or abuse of authority or persistent unfairness toward any partner, or the property of the limited partnership is being misapplied or wasted by the general partners.

(c) Dissolution is reasonably necessary for the protection of the rights or interests of the complaining partners.

SEC. 32. Section 15583 of the Corporations Code is amended to read:

15583. In the event of a dissolution of a limited partnership: (a) Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs, unless the dissolution occurs pursuant to subdivision (d) of Section 15581, in which event the winding up shall be conducted in accordance with the decree of dissolution.

(b) Upon the petition of limited partners representing 5 percent or more of the interests of limited partners, or three or more creditors, a court of competent jurisdiction may enter a decree

ordering the winding up of the limited partnership if that appears necessary for the protection of any parties in interest. The decree shall designate the partners who are to wind up the limited partnership's affairs.

(c) Unless otherwise provided in the partnership agreement, the limited partners winding up the affairs of the partnership pursuant to this section, shall be entitled to reasonable compensation.

SEC. 33. Section 15584 of the Corporations Code is amended to read:

15584. Upon the winding up of a limited partnership, the assets shall be distributed in the following order:

(a) To creditors, including partners who are creditors to the extent permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under Section 15561, 15564 or 15565.

(b) Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under Sections 15561, 15564, and 15565.

(c) To partners in accordance with their rights under the partnership agreement and Section 15536.

SEC. 34. Section 15585 of the Corporations Code is amended to read:

15585. After dissolution, a general partner can bind the partnership as follows:

(a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution.

(b) By any transaction which would bind the partnership if dissolution had not taken place, if, the other party to the transaction:

(1) Had extended credit to the partnership prior to dissolution and had no actual knowledge or notice of the dissolution.

(2) Though not so extending credit, had nevertheless known of the partnership prior to dissolution, and, had no actual knowledge or notice of dissolution, and a certificate of dissolution has not been filed as provided in subdivision (a) of Section 15523.

SEC. 35. Section 15592 of the Corporations Code is amended to read:

15592. Before transacting intrastate business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State an application for registration as a foreign limited partnership, signed and acknowledged by a general partner on a form prescribed by the Secretary of State and setting forth all of the following:

(a) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state.

(b) The state or country and date of its formation and a statement that the foreign limited partnership is authorized to exercise its powers and privileges in such state or country of formation.

(c) The name and address of an agent for service of process on the foreign limited partnership meeting the qualifications specified in paragraph (1) of subdivision (d) of Section 15527.

(d) A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if the agent has resigned and has not been replaced or if the agent cannot be found or served with the exercise of reasonable diligence.

(e) The address of the principal executive office of the foreign limited partnership and of its principal office in this state, if any.

(f) The names and business or residence addresses of the general partners.

SEC. 36. Section 15593 of the Corporations Code is amended to read:

15593. If the Secretary of State finds that an application for registration conforms to law and all requisite fees have been paid, the Secretary of State shall issue a certificate of registration to transact intrastate business in this state. However, no certificate of registration shall be issued for a foreign limited partnership to transact intrastate business in this state under a name which falls within the prohibitions of subdivision (c) of Section 15512.

SEC. 37. Section 15595 of the Corporations Code is amended to read:

15595. If any statement in the application for registration of a foreign limited partnership was false when made or any statements made have become erroneous, the foreign limited partnership shall promptly file in the office of the Secretary of State an amendment to the application for registration, signed and acknowledged by a general partner, amending the statement.

SEC. 38. Section 15601 of the Corporations Code is amended to read:

15601. Any limited partner may bring a class action on behalf of all or a class of limited partners to enforce any claim common to those limited partners against a domestic or foreign partnership or any or all general partners, without regard to the number of those limited partners, but each of those limited partners shall be given an opportunity to procure exclusion from the class.

SEC. 39. Section 15602 of the Corporations Code is amended to read:

15602. (a) No action may be instituted or maintained in right of any domestic or foreign limited partnership by any partner of the limited partnership unless both of the following conditions exist:

(1) The plaintiff alleges in the complaint that plaintiff was a partner of record or beneficially, at the time of the transaction or any part thereof of which plaintiff complains or that plaintiff's interest thereafter devolved upon plaintiff by operation of law from a partner who was a partner at the time of the transaction or any part thereof complained of. Any partner 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 any evidence, by affidavit or testimony, as it deems material, that (A) there is a strong prima facie case in favor of the claim asserted on behalf of the limited partnership, (B) no other similar action has been or is likely to be instituted, (C) the plaintiff acquired the interest before there was disclosure to the public or to the plaintiff of the wrongdoing of which plaintiff complains, (D) unless the action can be maintained the defendant may retain a gain derived from defendant's willful breach of a fiduciary duty, and (E) the requested relief will not result in unjust enrichment of the limited partnership or any partner of the limited partnership.

(2) The plaintiff alleges in the complaint with particularity plaintiff's efforts to secure from the general partners such action as plaintiff desires or the reasons for not making that effort, and alleges further that plaintiff has either informed the limited partnership or the general partners in writing of the ultimate facts of each cause of action against each defendant or delivered to the limited partnership or the general partners a true copy of the complaint which plaintiff proposes to file.

(b) In any action referred to in subdivision (a), at any time within 30 days after service of summons upon the limited partnership or upon any defendant who is a general partner of the limited partnership or held that position at the time of the acts complained of, the limited partnership or the defendant may move the court for an order, upon notice and hearing, requiring the plaintiff to furnish security as hereinafter provided. The motion shall be based upon one or both of the following grounds:

(1) That there is no reasonable possibility that the prosecution of the cause of action alleged in the complaint against the moving party will benefit the limited partnership or its partners.

(2) That the moving party, if other than the limited partnership, did not participate in the transaction complained of in any capacity. The court on application of the limited partnership or any defendant may, for good cause shown, extend the 30-day period for an additional period not exceeding 60 days.

(c) At the hearing upon any motion pursuant to subdivision (b), the court shall consider evidence, written or oral, by witnesses or affidavit, as may be material (1) to the ground upon which the motion is based, or (2) to a determination of the probable reasonable expenses, including attorneys' fees, of the limited partnership and the moving party which will be incurred in the defense of the action. If the court determines after hearing the evidence adduced by the parties, that the moving party has established a probability in support of any of the grounds upon which the motion is based, the court shall fix the nature and amount of security, not to exceed fifty thousand dollars ($50,000), to be furnished by the plaintiff for reasonable expenses, including attorneys' fees, which may be incurred by the moving party and the limited partnership in connection with the action. A ruling by the court on the motion shall not be a

determination of any issue in the action or of the merits thereof. The amount of the security may thereafter be increased or decreased in the discretion of the court upon a showing that the security provided has or may become inadequate or is excessive, but the court may not in any event increase the total amount of the security beyond fifty thousand dollars ($50,000) in the aggregate for all defendants. If the court, upon any such motion, makes a determination that security shall be furnished by the plaintiff as to any one or more defendants, the action shall be dismissed as to such defendant or defendants, unless the security required by the court shall have been furnished within any reasonable time as may be fixed by the court. The limited partnership and the moving party shall have recourse to the security in such amount as the court shall determine upon the termination of the action.

(d) If the plaintiff shall, either before or after a motion is made pursuant to subdivision (b), or any order or determination pursuant to such motion, post good and sufficient bond or bonds in the aggregate amount of fifty thousand dollars ($50,000) to secure the reasonable expenses of the parties entitled to make the motion, the plaintiff has complied with the requirements of this section and with any order for security theretofore made pursuant hereto, and any such motion then pending shall be dismissed and no further or additional bond or other security shall be required.

(e) If a motion is filed pursuant to subdivision (b), no pleadings need be filed by the limited partnership or any other defendant and the prosecution of the action shall be stayed until 10 days after the motion has been disposed of.

SEC. 40. Section 15612 of the Corporations Code is amended to read:

15612. A limited partnership organized under the laws of this state and existing on the effective date:

(a) Shall file a certificate referred to in Section 15521, including therein the date that the limited partnership filed under the provisions of Chapter 2 (commencing with Section 15501) of Title 2 of the Corporations Code in existence prior to adoption of this chapter, and shall thereafter be governed by the provisions of Article 2 (commencing with Section 15521).

(b) Shall not be subject to the requirement of subdivision (a) of Section 15512 or to the limitations of subdivision (c) of Section 15512 if a certificate as required by subdivision (a) of this section is filed prior to January 1, 1985.

(c) May not maintain any action, suit, or proceeding in any court of this state until it has filed a certificate as required by subdivision (a).

(d) May elect to be governed by this chapter instead of by the law previously applicable to it. The election shall be made by the written consent of all partners, or of the lesser number provided by the partnership agreement for this election. The election shall be prospective only and shall not affect preexisting rights of third

parties.

SEC. 41. Section 15613 of the Corporations Code is amended to read:

15613. (a) A foreign limited partnership existing on the effective date shall not be subject to the limitations of subdivision (c) of Section 15512 if a certificate of registration referred to in Section 15593 is issued prior to January 1, 1985.

(b) The provisions of subdivision (b) of Section 15597 shall not be operative until January 1, 1985.

SEC. 42. Section 15614 of the Corporations Code is amended to read:

15614. As used in this article, "effective date" means January 1, 1984.

SEC. 43. Section 12209 of the Government Code is amended to read:

12209. Upon the filing of any document as to a corporation or limited partnership or pursuant to any provision of the Corporations Code for which there is a filing fee of fifteen dollars ($15) or more or upon the filing of any document referred to in subdivision (b) of Section 12205 or subdivision (b) of Section 12214, the Secretary of State shall compare and certify up to two copies thereof, or two copies for each merger transaction, without charge provided that the copies are submitted to the Secretary of State with the original to be filed.

SEC. 44. Section 8 of Chapter 807 of the Statutes of 1981 is amended to read:

Sec. 8. This act shall become operative on January 1, 1984.

CHAPTER 998

An act to add Chapter 2 (commencing with Section 995.010) to Title 14 of Part 2 of the Code of Civil Procedure, relating to bonds and undertakings.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982]

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

SECTION 1. Chapter 2 (commencing with Section 995.010) is added to Title 14 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 2. BONDS AND UNDERTAKINGS

Article 1. Preliminary Provisions and Definitions

995.010. This chapter shall be known and may be cited as the Bond and Undertaking Law.

995.020. (a) The provisions of this chapter apply to a bond or undertaking executed, filed, posted, furnished, or otherwise given as security pursuant to any statute of this state, except to the extent the statute prescribes a different rule or is inconsistent.

(b) The provisions of this chapter apply to a bond or undertaking given at any of the following times:

(1) On or after January 1, 1983.

(2) Before January 1, 1983, to the extent another surety is substituted for the original surety on or after January 1, 1983, or to the extent the principal gives a new, additional, or supplemental bond or undertaking on or after January 1, 1983.

(c) The provisions of this chapter do not apply to a bail bond or an undertaking of bail.

995.030. If service of a notice, paper, or other document is required under this chapter, service shall be made in the same manner as service of process in civil actions generally.

995.040. An affidavit made under this chapter shall conform to the standards prescribed for an affidavit made pursuant to Section 437c.

995.050. The times provided in this chapter, or in any other statute relating to a bond given in an action or proceeding, may be extended pursuant to Sections 1054 and 1054.1.

995.110. Unless the provision or context otherwise requires, the definitions in this article govern the construction of this chapter.

995.120. (a) "Admitted surety insurer" means a corporate insurer or a reciprocal or interinsurance exchange to which the Insurance Commissioner has issued a certificate of authority to transact surety insurance in this state, as defined in Section 105 of the Insurance Code.

(b) For the purpose of application of this chapter to a bond given pursuant to any statute of this state, the phrases "admitted surety insurer," "authorized surety company," "bonding company," "corporate surety," and comparable phrases used in the statute mean "admitted surety insurer" as defined in this section.

995.130. (a) "Beneficiary" means the person for whose benefit a bond is given, whether executed to, in favor of, in the name of, or payable to the person as an obligee.

(b) If a bond is given for the benefit of the State of California or the people of the state, "beneficiary" means the court, officer, or other person required to determine the sufficiency of the sureties or to approve the bond.

(c) For the purpose of application of this chapter to a bond given pursuant to any statute of this state, the terms "beneficiary," "obligee," and comparable terms used in the statute mean "beneficiary" as defined in this section.

995.140. (a) "Bond" includes both of the following:

(1) A surety, indemnity, fiduciary, or like bond executed by both the principal and sureties.

(2) A surety, indemnity, fiduciary, or like undertaking executed

by the sureties alone.

(b) A bond provided for or given "in an action or proceeding" does not include a bond provided for, or given as, a condition of a license or permit.

995.150. "Court" means, if a bond is given in an action or proceeding, the court in which the action or proceeding is pending.

995.160. "Officer" means the sheriff, marshal, constable, clerk of court, judge or magistrate (if there is no clerk), board, commission, department, or other public official or entity to whom the bond is given or with whom a copy of the bond is filed or who is required to determine the sufficiency of the sureties or to approve the bond.

995.170. (a) "Principal" means the person who gives a bond.

(b) For the purpose of application of this chapter to a bond given pursuant to any statute of this state, the terms "obligor," "principal," and comparable terms used in the statute mean "principal" as defined in this section.

995.180. "Statute" includes administrative regulation promulgated pursuant to statute.

995.185. (a) "Surety" has the meaning provided in Section 2787 of the Civil Code and includes personal surety and admitted surety insurer.

(b) For the purpose of application of this chapter to a bond given pursuant to any statute of this state, the terms "bail," "guarantor," "bondsman," "surety," and comparable terms used in the statute mean "surety" as defined in this section.

995.190. "Undertaking" means a surety, indemnity, fiduciary, or like undertaking executed by the sureties alone.

Article 2. General Provisions

995.210. Unless the provision or context otherwise requires:

(a) If a statute provides for a bond, an undertaking that otherwise satisfies the requirements for the bond may be given in its place with the same effect as if a bond were given, and references in the statute to the bond shall be deemed to be references to the undertaking.

(b) If a statute provides for an undertaking, a bond that otherwise satisfies the requirements for the undertaking may be given in its place with the same effect as if an undertaking were given, and references in the statute to the undertaking shall be deemed to be references to the bond.

995.220. Notwithstanding any other statute, if a statute provides for a bond in an action or proceeding, including but not limited to a bond for issuance of a restraining order or injunction, appointment of a receiver, or stay of enforcement of a judgment on appeal, the following public entities and officers are not required to give the bond and shall have the same rights, remedies, and benefits as if the bond were given:

(a) The State of California or the people of the state, a state agency, department, division, commission, board, or other entity of

the state, or a state officer in an official capacity or on behalf of the state.

(b) A county, city, or district, or public authority, public agency, or other political subdivision in the state, or an officer of the local public entity in an official capacity or on behalf of the local public entity.

(c) The United States or an instrumentality or agency of the United States, or a federal officer in an official capacity or on behalf of the United States or instrumentality or agency.

995.230. The beneficiary of a bond given in an action or proceeding may in writing consent to the bond in an amount less than the amount required by statute or may waive the bond.

995.240. The court may, in its discretion, waive a provision for a bond in an action or proceeding and make such orders as may be appropriate as if the bond were given, if the court determines that the principal is unable to give the bond because the principal is indigent and is unable to obtain sufficient sureties, whether personal or admitted surety insurers. In exercising its discretion the court shall take into consideration all factors it deems relevant, including but not limited to the character of the action or proceeding, the nature of the beneficiary, whether public or private, and the potential harm to the beneficiary if the provision for the bond is waived.

995.250. If a statute allows costs to a party in an action or proceeding, the costs shall include all of the following:

(a) The premium on a bond reasonably paid by the party pursuant to a statute that provides for the bond in the action or proceeding.

(b) The premium on a bond reasonably paid by the party in connection with the action or proceeding, unless the court determines that the bond was unnecessary.

995.260. If a bond is recorded pursuant to statute, a certified copy of the record of the bond with all affidavits, acknowledgments, endorsements, and attachments may be admitted in evidence in an action or proceeding with the same effect as the original, without further proof.

Article 3. Execution and Filing

995.310. Unless the statute providing for the bond requires execution by an admitted surety insurer, a bond shall be executed by two or more sufficient personal sureties or by one sufficient admitted surety insurer or by any combination of sufficient personal sureties and admitted surety insurers.

995.320. (a) A bond shall be in writing signed by the sureties under oath and shall include all of the following:

(1) A statement that the sureties are jointly and severally liable on the obligations of the statute providing for the bond.

(2) The address at which the principal and sureties may be served with notices, papers, and other documents under this chapter.

(3) If the amount of the bond is based upon the value of property or an interest in property, a description of the property or interest, and the principal's estimate of the value of the property or interest, or if given pursuant to the estimate of the beneficiary or court, the value as so estimated.

(b) The sureties signing the bond are jointly and severally liable on the obligations of the bond, the provisions of this chapter, and the statute providing for the bond.

995.330. A bond or undertaking given in an action or proceeding may be in the following form:

"(Title of court. Title of cause.)

Whereas the . . . desires to give (a bond) (an undertaking) for (state what) as provided by (state sections of code requiring bond or undertaking); now, therefore, the undersigned (principal and) (sureties) (surety) hereby (obligate ourselves, jointly and severally) (obligates itself) to (name who) under the statutory obligations, in the amount of . . . dollars."

995.340. If a bond is given in an action or proceeding:

(a) The bond shall be filed with the court unless the statute providing for the bond requires that the bond be given to another person.

(b) If the statute providing for the bond requires that the bond be given to an officer, the officer shall file the bond with the court unless the statute providing for the bond otherwise provides.

(c) A bond filed with the court shall be preserved in the office of the clerk of the court.

995.350. (a) Upon the filing of a bond with the court in an action or proceeding, the clerk shall enter in the register of actions the following information:

(1) The date and amount of the bond.

(2) The names of the sureties on the bond.

(b) In the event of the loss of the bond, the entries in the register of actions are prima facie evidence of the giving of the bond in the manner required by statute.

995.360. A bond given in an action or proceeding may be withdrawn from the file and returned to the principal on order of the court only if one of the following conditions is satisfied:

(a) The beneficiary so stipulates.

(b) The bond is no longer in force and effect and the time during which the liability on the bond may be enforced has expired.

995.370. At the time a bond is given, the principal shall serve a copy of the bond on the beneficiary. An affidavit of service shall be given and filed with the bond.

995.380. (a) If a bond does not contain the substantial matter or conditions required by this chapter or by the statute providing for the bond, or if there are any defects in the giving or filing of the bond, the bond is not void so as to release the principal and sureties from liability.

(b) The beneficiary may, in proceedings to enforce the liability on

the bond, suggest the defect in the bond, or its giving or filing, and enforce the liability against the principal and the persons who intended to become and were included as sureties on the bond.

Article 4. Approval and Effect

995.410. (a) A bond becomes effective without approval unless the statute providing for the bond requires that the bond be approved by the court or officer.

(b) If the statute providing for a bond requires that the bond be approved, the court or officer may approve or disapprove the bond on the basis of the affidavit or certificate of the sureties or may require the attendance of witnesses and the production of evidence and may examine the sureties under oath touching their qualifications.

(c) Nothing shall be construed to preclude approval of a bond in an amount greater than that required by statute.

995.420. (a) Unless the statute providing for a bond provides that the bond becomes effective at a different time, a bond is effective at the time it is given or, if the statute requires that the bond be approved, at the time it is approved.

(b) If the statute providing for a bond provides that the bond becomes effective at a time other than the time it is given or approved, the bond is effective at the time provided unless an objection is made to the bond before that time. If an objection is made to a bond before the time provided, the bond becomes effective when the court makes an order determining the sufficiency of the bond.

995.430. A bond remains in force and effect until the earliest of the following events:

(a) The sureties withdraw from or cancel the bond or a new bond is given in place of the original bond.

(b) The purpose for which the bond was given is satisfied or the purpose is abandoned without any liability having been incurred.

(c) A judgment of liability on the bond that exhausts the amount of the bond is satisfied.

(d) The term of the bond expires. Unless the statute providing for the bond prescribes a fixed term, the bond is continuous.

995.440. A bond given as a condition of a license or permit shall be continuous in form, remain in full force and effect, and run concurrently with the license or permit period and any and all renewals, or until cancellation or withdrawal of the surety from the bond.

Article 5. Personal Sureties

995.510. (a) A personal surety on a bond is sufficient if all of the following conditions are satisfied:

(1) The surety is a person other than the principal. No officer of

the court or member of the State Bar shall act as a surety.

(2) The surety is a resident, and either an owner of real property or householder, within the state.

(3) The surety is worth the amount of the bond in real or personal property, or both, situated in this state, over and above all debts and liabilities, exclusive of property exempt from enforcement of a money judgment.

(b) If the amount of a bond exceeds ten thousand dollars ($10,000) and is executed by more than two personal sureties, the worth of a personal surety may be less than the amount of the bond, so long as the aggregate worth of all sureties executing the bond is twice the amount of the bond.

995.520. (a) A bond executed by personal sureties shall be accompanied by an affidavit of qualifications of each surety.

(b) The affidavit shall contain all of the following information:

(1) The name, occupation, residence address, and business address (if any) of the surety.

(2) A statement that the surety is a resident, and either an owner of real property or householder, within the state.

(3) A statement that the surety is worth the amount of the bond in real or personal property, or both, situated in this state, over and above all debts and liabilities, exclusive of property exempt from enforcement of a money judgment.

(c) If the amount of the bond exceeds five thousand dollars ($5,000), the affidavit shall contain, in addition to the information required by subdivision (b), all of the following information:

(1) A description sufficient for identification of real and personal property of the surety situated in this state and the nature of the surety's interest therein that qualifies the surety on the bond.

(2) The surety's best estimate of the fair market value of each item of property.

(3) A statement of any charge or lien and its amount, known to the surety, whether of public record or not, against any item of property.

(4) Any other impediment or cloud known to the surety on the free right of possession, use, benefit, or enjoyment of the property.

(d) If the amount of the bond exceeds ten thousand dollars ($10,000) and is executed by more than two sureties, the affidavit may state that the surety is worth less than the amount of the bond and the bond may stipulate that the liability of the surety is limited to the worth of the surety stated in the affidavit, so long as the aggregate worth of all sureties executing the bond is twice the amount of the bond.

Article 6. Admitted Surety Insurers

995.610. (a) If a statute provides for a bond with any number of sureties, one sufficient admitted surety insurer may become and shall be accepted as sole surety on the bond.

(b) The admitted surety insurer is subject to all the liabilities and entitled to all the rights of personal sureties.

995.620. Two or more admitted surety insurers may be sureties on a bond by executing the same or separate bonds for amounts aggregating the required amount of the bond. Each admitted surety insurer is jointly and severally liable to the extent of the amount of the liability assumed by it.

995.630. An admitted surety insurer shall not be accepted or approved by the court or officer as surety on a bond unless, and shall be accepted or approved by the court or officer without further acknowledgment if, all of the following conditions are satisfied:

(a) A copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of the insurer entitling or authorizing the person who executed the bond to do so for and in behalf of the insurer, is filed in the office of the clerk of the county in which the court or officer is located.

(b) The bond is executed in the name of the insurer under penalty of perjury or the fact of execution of the bond is duly acknowledged before an officer authorized to take and certify acknowledgments.

995.640. The county clerk of any county shall, upon request of any person, do any of the following:

(a) Issue a certificate stating whether the certificate of authority of an admitted surety issuer issued by the Insurance Commissioner authorizing the insurer to transact surety insurance, has been surrendered, revoked, canceled, annulled, or suspended, and in the event that it has, whether renewed authority has been granted. The county clerk in issuing the certificate shall rely solely upon the information furnished by the Insurance Commissioner pursuant to Article 2 (commencing with Section 12070) of Chapter 1 of Part 4 of Division 2 of the Insurance Code.

(b) Issue a certificate stating whether a copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of an admitted surety insurer entitling or authorizing the person who executed a bond to do so for and in behalf of the insurer, is filed in the office of the clerk.

995.650. If an objection is made to the sufficiency of an admitted surety insurer, the person making the objection shall attach to and incorporate in the objection one or both of the following:

(a) The certificate of the county clerk of the county in which the court is located stating that the insurer has not been certified to the county clerk by the Insurance Commissioner as an admitted surety insurer or that the certificate of authority of the insurer has been surrendered, revoked, canceled, annulled, or suspended and has not been renewed.

(b) An affidavit stating facts that establish the insufficiency of the insurer.

995.660. (a) If an objection is made to the sufficiency of an

admitted surety insurer on a bond or if the bond is required to be approved, the insurer shall submit to the court or officer the following documents:

(1) The original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws, or other instrument entitling or authorizing the person who executed the bond to do so.

(2) A certified copy of the certificate of authority of the insurer issued by the Insurance Commissioner.

(3) A certificate from the county clerk of the county in which the court or officer is located that the certificate of authority of the insurer has not been surrendered, revoked, canceled, annulled, or suspended or, in the event that it has, that renewed authority has been granted.

(4) A financial statement of the assets and liabilities of the insurer at the end of the quarter calendar year prior to 30 days next preceding the date of the execution of the bond. The financial statement shall be made by an officers' certificate as defined in Section 173 of the Corporations Code. In the case of a foreign insurer the financial statement may, instead of an officers' certificate, be verified by the oath of the principal officer or manager residing within the United States.

(b) If the admitted surety insurer complies with subdivision (a) and if it appears that the bond was duly executed, that the insurer is authorized to transact surety insurance in the state, and that its assets exceed its liabilities in an amount equal to or in excess of the amount of the bond, the insurer is sufficient and shall be accepted or approved as surety on the bond, subject to Section 12090 of the Insurance Code.

Article 7. Deposit in Lieu of Bond

995.710. (a) Except to the extent the statute providing for a bond precludes a deposit in lieu of bond or limits the form of deposit, the principal may, instead of giving a bond, deposit with the officer any of the following:

(1) Lawful money of the United States. The money shall be maintained by the officer in an interest-bearing trust account.

(2) Bearer bonds or bearer notes of the United States or the State of California.

(3) Certificates of deposit payable to the officer, not exceeding the federally insured amount, issued by banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation or by savings and loan associations authorized to do business in this state and insured by the Federal Savings and Loan Insurance Corporation.

(4) Savings accounts assigned to the officer, not exceeding the federally insured amount, together with evidence of the deposit in the savings accounts with banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation.

(5) Investment certificates or share accounts assigned to the officer, not exceeding the federally insured amount, issued by savings and loan associations authorized to do business in this state and insured by the Federal Savings and Loan Insurance Corporation.

(6) Certificates for funds or share accounts assigned to the officer, not exceeding the guaranteed amount, issued by a credit union, as defined in Section 14002 of the Financial Code, whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Corporations.

(b) The deposit shall be in an amount or have a face value, or in the case of bearer bonds or bearer notes have a market value, equal to or in excess of the amount that would be required to be secured by the bond if the bond were given by an admitted surety insurer.

(c) The deposit shall be accompanied by an agreement executed by the principal authorizing the officer to collect, sell, or otherwise apply the deposit to enforce the liability of the principal on the deposit. The agreement shall include the address at which the principal may be served with notices, papers, and other documents under this chapter.

995.720. (a) The market value of bearer bonds or bearer notes shall be agreed upon by stipulation of the principal and beneficiary or, if the bonds or notes are given in an action or proceeding and the principal and beneficiary are unable to agree, the market value shall be determined by court order in the manner prescribed in this section. A certified copy of the stipulation or court order shall be delivered to the officer at the time of the deposit of the bonds or notes.

(b) If the bonds or notes are given in an action or proceeding, the principal may file a written application with the court to determine the market value of the bonds or notes. The application shall be served upon the beneficiary and proof of service shall be filed with the application. The application shall contain all of the following:

(1) A specific description of the bonds or notes.

(2) A statement of the current market value of the bonds or notes as of the date of the filing of the application.

(3) A statement of the amount of the bonds or notes that the principal believes would be equal to the required amount of the deposit.

(c) The application pursuant to subdivision (b) shall be heard by the court not less than five days or more than 10 days after service of the application. If at the time of the hearing no objection is made to the current market value of the bonds or notes alleged in the application, the court shall fix the amount of the bonds or notes on the basis of the market value alleged in the application. If the beneficiary contends that the current market value of the bonds or notes is less than alleged in the application, the principal shall offer evidence in support of the application, and the beneficiary may offer evidence in opposition. At the conclusion of the hearing, the court

shall make an order determining the market value of the bonds or notes and shall fix and determine the amount of the bonds or notes to be deposited by the principal.

995.730. A deposit given instead of a bond has the same force and effect, is treated the same, and is subject to the same conditions, liability, and statutory provisions, including provisions for increase and decrease of amount, as the bond.

995.740. If no proceedings are pending to enforce the liability of the principal on the deposit, the officer shall:

(a) Pay quarterly, on demand, any interest on the deposit, when earned in accordance with the terms of the account or certificate, to the principal.

(b) Deliver to the principal, on demand, any interest coupons attached to bearer bonds or bearer notes as the interest coupons become due and payable, or pay annually any interest payable on the bonds or notes.

995.750. (a) The principal shall pay the amount of the liability on the deposit within 30 days after the date on which the judgment of liability becomes final.

(b) If the deposit was given to stay enforcement of a judgment on appeal, the principal shall pay the amount of the liability on the deposit, including damages and costs awarded against the principal on appeal, within 30 days after the filing of the remittitur from the appellate court in the court from which the appeal is taken.

995.760. (a) If the principal does not pay the amount of the liability on the deposit within the time prescribed in Section 995.750, the deposit shall be collected, sold, or otherwise applied to the liability upon order of the court that entered the judgment of liability, made upon five days' notice to the parties.

(b) Bearer bonds or bearer notes without a prevailing market price shall be sold at public auction. Notice of sale shall be served on the principal. Bearer bonds or bearer notes having a prevailing market price may be sold at private sale at a price not lower than the prevailing market price.

(c) The deposit shall be distributed in the following order:

(1) First, to pay the cost of collection, sale, or other application of the deposit.

(2) Second, to pay the judgment of liability of the principal on the deposit.

(3) Third, the remainder, if any, shall be returned to the principal.

995.770. A deposit given pursuant to this article shall be returned to the principal at the earliest of the following times:

(a) Upon substitution of a sufficient bond for the deposit. The bond shall be in full force and effect for all liabilities incurred, and for acts, omissions, or causes existing or which arose, during the period the deposit was in effect.

(b) The time provided by Section 995.360 for return of a bond.

(c) The time provided by statute for return of the deposit.

Article 8. Bonds to the State of California

995.810. The provisions of this article apply to a bond executed to, in favor of, in the name of, or payable to the State of California or the people of the state, including but not limited to an official bond.

995.820. Except as otherwise provided by statute, a bond given by an officer of the court for the faithful discharge of the officer's duties and obedience to the orders of the court shall be to the State of California.

995.830. If a statute or court order pursuant thereto providing for a bond does not specify the beneficiary of the bond, the bond shall be to the State of California.

995.840. If a bond under this article is given in an action or proceeding:

(a) The bond shall be approved by the court.

(b) Any party for whose benefit the bond is given may object to the bond.

995.850. (a) The liability on a bond under this article may be enforced by or for the benefit of, and in the name of, any and all persons for whose benefit the bond is given who are damaged by breach of the condition of the bond.

(b) A person described in subdivision (a) may, in addition to any other remedy the person has, enforce the liability on the bond in the person's own name, without assignment of the bond.

Article 9. Objections to Bonds

995.910. This article governs objections to a bond given in an action or proceeding.

995.920. The beneficiary may object to a bond on any of the following grounds:

(a) The sureties are insufficient.

(b) The amount of the bond is insufficient.

(c) The bond, from any other cause, is insufficient.

995.930. (a) An objection shall be in writing and shall be made by noticed motion. The notice of motion shall specify the precise grounds for the objection. If a ground for the objection is that the amount of the bond is insufficient, the notice of motion shall state the reason for the insufficiency and shall include an estimate of the amount that would be sufficient.

(b) The objection shall be made within 10 days after service of a copy of the bond on the beneficiary or such other time as is required by the statute providing for the bond.

(c) If no objection is made within the time required by statute, the beneficiary is deemed to have waived all objections except upon a showing of changed circumstances.

995.940. If a ground for the objection is that the value of property or an interest in property on which the amount of the bond is based exceeds the value estimated in the bond:

(a) The objection shall state the beneficiary's estimate of the market value of the property or interest in property.

(b) The principal may accept the beneficiary's estimate of the market value of the property or interest in property and immediately file an increased bond based on the estimate. In such case, no hearing shall be held on that ground for the objection, and the beneficiary is bound by the estimate of the market value of the property or interest in property.

995.950. (a) Unless the parties otherwise agree, the hearing on an objection shall be held not less than two or more than five days after service of the notice of motion.

(b) The hearing shall be conducted in such manner as the court determines is proper. The court may permit witnesses to attend and testify and evidence to be procured and introduced in the same manner as in the trial of a civil case.

(c) If the value of property or an interest in property is a ground for the objection, the court shall estimate its value. The court may appoint one or more disinterested persons to appraise property or an interest in property for the purpose of estimating its value.

995.960. (a) Upon the hearing, the court shall make an order determining the sufficiency or insufficiency of the bond.

(b) If the court determines that the bond is insufficient:

(1) The court shall specify in what respect the bond is insufficient and shall order that a bond with sufficient sureties and in a sufficient amount be given within five days. If a sufficient bond is not given within the time required by the court order, all rights obtained by giving the bond immediately cease and the court shall upon ex parte motion so order.

(2) If a bond is in effect, the bond remains in effect until a bond with sufficient sureties and in a sufficient amount is given in its place, or the time in which to give the bond has expired, whichever first occurs. If the time in which to give a sufficient bond expires, the original bond remains in full force and effect for all liabilities incurred before, and for acts, omissions, or causes existing or which arose before, expiration.

(c) If the court determines that a bond is sufficient, no future objection to the bond may be made except upon a showing of changed circumstances.

Article 10. Insufficient and Excessive Bonds

996.010. (a) If a bond is given in an action or proceeding, the court may determine that the bond is or has from any cause become insufficient because the sureties are insufficient or because the amount of the bond is insufficient.

(b) The court determination shall be upon motion supported by affidavit or upon the court's own motion. The motion shall be deemed to be an objection to the bond. The motion shall be heard and notice of motion shall be given in the same manner as an

objection to the bond.

(c) Upon the determination the court shall order that a sufficient new, additional, or supplemental bond be given within a reasonable time not less than five days. The court order is subject to any limitations in the statute providing for the bond.

(d) If a sufficient bond is not given within the time required by the court order, all rights obtained by giving the original bond immediately cease and the court shall upon ex parte motion so order.

996.020. (a) If a bond is given other than in an action or proceeding and it is shown by affidavit of a credible witness or it otherwise comes to the attention of the officer that the bond is or has from any cause become insufficient because the sureties are insufficient or because the amount of the bond is insufficient, the officer may serve an order on the principal to appear and show cause why the officer should not make a determination that the bond is insufficient. The order shall name a day not less than three or more than 10 days after service.

(b) If the principal fails to appear or show good cause on the day named why a determination that the bond is insufficient should not be made, the officer may determine that the bond is insufficient and order a sufficient new, additional, or supplemental bond to be given.

(c) If a sufficient bond is not given within 10 days after the order, the officer shall make an order vacating the rights obtained by giving the original bond, including declaring vacant any office and suspending or revoking any license or certificate for which the bond was given. Any office vacated, license suspended or revoked, or any other rights lost, for failure to give a new, additional, or supplemental bond, shall not be reinstated until a new, additional, or supplemental bond is given.

996.030. (a) The court if a bond is given in an action or proceeding, or the officer if a bond is given other than in an action or proceeding, may determine that the amount of the bond is excessive and order the amount reduced to an amount that in the discretion of the court or officer appears proper under the circumstances. The order is subject to any limitations in the statute providing for the bond.

(b) The determination shall be made upon motion or affidavit of the principal in the same manner as a motion or affidavit for a determination under this article that a bond is insufficient. The notice of motion or the order to show cause made pursuant to affidavit shall be served on the beneficiary. The determination shall be made in the same manner and pursuant to the same procedures as a determination under this article that the bond is insufficient.

(c) The principal may give a new bond for the reduced amount. The sureties may be the same sureties as on the original bond.

Article 11. Release or Substitution of Sureties on Bond Given in Action or Proceeding

996.110. (a) A surety on a bond given in an action or proceeding may at any time apply to the court for an order that the surety be released from liability on the bond.

(b) The principal on a bond may, if a surety applies for release from liability on a bond, apply to the court for an order that another surety be substituted for the original surety.

(c) The applicant shall serve on the principal or surety (other than the applicant) and on the beneficiary a copy of the application and a notice of hearing on the application. Service shall be made not less than 15 days before the date set for hearing.

996.120. Upon the hearing of the application, the court shall determine whether injury to the beneficiary would result from substitution or release of the surety. If the court determines that release would not reduce the amount of the bond or the number of sureties below the minimum required by the statute providing for the bond, substitution of a sufficient surety is not necessary and the court shall order the release of the surety. If the court determines that no injury would result from substitution of the surety, the court shall order the substitution of a sufficient surety within such time as appears reasonable.

996.130. (a) If a substitute surety is given, the substitute surety is subject to all the provisions of this chapter, including but not limited to the provisions governing insufficient and excessive bonds.

(b) Upon the substitution of a sufficient surety, the court shall order the release of the original surety from liability on the bond.

996.140. If the principal does not give a sufficient substitute surety within the time ordered by the court or such longer time as the surety consents to, all rights obtained by giving the original bond immediately cease and the court shall upon ex parte motion so order.

996.150. If a surety is ordered released from liability on a bond:

(a) The bond remains in full force and effect for all liabilities incurred before, and for acts, omissions, or causes existing or which arose before, the release. Legal proceedings may be had therefor in all respects as though there had been no release.

(b) The surety is not liable for any act, default, or misconduct of the principal or other breach of the condition of the bond that occurs after, or for any liabilities on the bond that arise after, the release.

(c) The release does not affect the bond as to the remaining sureties, or alter or change their liability in any respect.

Article 12. New, Additional, and Supplemental Bonds

996.210. (a) The principal shall give a new, additional, or supplemental bond if the court or officer orders that a new, additional, or supplemental bond be given.

(b) The principal may give a new bond if a surety withdraws from

or cancels the original bond or to obtain the release of sureties from liability on the original bond.

996.220. (a) A new, additional, or supplemental bond shall be in the same form and have the same obligation as the original bond and shall be in all other respects the same as the original bond, and shall be in such amount as is necessary for the purpose for which the new, additional, or supplemental bond is given.

(b) A supplemental bond shall, in addition to any other requirements, recite the names of the remaining original sureties, the name of the new surety, and the amount for which the new surety is liable. The supplemental bond shall be for the amount for which the original surety was liable on the original bond.

996.230. A new, additional, or supplemental bond is subject to all the provisions applicable to the original bond and to the provisions of this chapter, including but not limited to the provisions governing giving and objecting to a bond and liabilities and enforcement procedures.

996.240. If a new bond is given in place of the original bond:

(a) The original bond remains in full force and effect for all liabilities incurred before, and for acts, omissions, or causes existing or which arose before, the new bond became effective.

(b) The sureties on the original bond are not liable for any act, default, or misconduct of the principal or other breach of the condition of the bond that occurs after or for any liabilities on the bond that arise after, the new bond becomes effective.

996.250. (a) An additional or supplemental bond does not discharge or affect the original bond. The original bond remains in full force and effect as if the additional or supplemental bond had not been given.

(b) After an additional or supplemental bond is given, the principal and sureties are liable upon either or both bonds for injury caused by breach of any condition of the bonds. Subject to subdivision (c), the beneficiary may enforce the liability on either bond, or may enforce the liability separately on both bonds and recover separate judgments of liability on both.

(c) If the beneficiary recovers separate judgments of liability on both bonds for the same cause of action, the beneficiary may enforce both judgments. The beneficiary may collect, by execution or otherwise, the costs of both proceedings to enforce the liability and the amount actually awarded to the beneficiary on the same cause of action in only one of the proceedings, and no double recovery shall be allowed.

(d) If the sureties on either bond have been compelled to pay any sum of money on account of the principal, they are entitled to recover from the sureties on the remaining bond a distributive part of the sum paid, in the proportion the amounts of the bonds bear one to the other and to the sums paid.

Article 13. Cancellation of Bond or Withdrawal of Sureties

996.310. This article governs cancellation of or withdrawal of a surety from a bond given other than in an action or proceeding.

996.320. A surety may cancel or withdraw from a bond by giving a notice of cancellation or withdrawal to the officer to whom the bond was given in the same manner the bond was given, notwithstanding Section 995.030. The surety shall at the same time mail or deliver a copy of the notice of cancellation or withdrawal to the principal.

996.330. Cancellation or withdrawal of a surety is effective at the earliest of the following times:

(a) Thirty days after notice of cancellation or withdrawal is given.

(b) If a new surety is substituted for the original surety, the date the substitution becomes effective.

(c) If a new bond is given, the date the new bond becomes effective.

996.340. (a) If the principal does not give a new bond within 30 days after notice of cancellation or withdrawal is given, all rights obtained by giving the original bond immediately cease, any office for which the bond is given is vacant, any commission for which the bond is given is revoked, and any license for which the bond is given is suspended.

(b) A person whose license is suspended shall not operate or carry on business pursuant to the license during the period of suspension. A license that is suspended may be revived only by the giving of a new bond during the license period in which the cancellation or withdrawal occurred.

996.350. If the withdrawal of a surety does not reduce the amount of the bond or the number of sureties below the minimum required by the statute providing for the bond, no new bond is required or necessary to maintain the original bond in effect.

996.360. If a surety cancels or withdraws from a bond:

(a) The bond remains in full force and effect for all liabilities incurred before, and for acts, omissions, or causes existing or which arose before, the cancellation or withdrawal. Legal proceedings may be had therefor in all respects as though there had been no cancellation or withdrawal.

(b) The surety is not liable for any act, default, or misconduct of the principal or other breach of the condition of the bond that occurs after, or for any liabilities on the bond that arise after, the cancellation or withdrawal.

(c) The cancellation or withdrawal does not affect the bond as to the remaining sureties, or alter or change their liability in any respect.

Article 14. Liability of Principal and Sureties

996.410. (a) The beneficiary may enforce the liability on a bond against both the principal and sureties.

(b) If the beneficiary is a class of persons, any person in the class may enforce the liability on a bond in the person's own name, without assignment of the bond.

996.420. (a) A surety on a bond given in an action or proceeding submits itself to the jurisdiction of the court in all matters affecting its liability on the bond.

(b) This section does not apply to a bond of a public officer or fiduciary.

996.430. (a) The liability on a bond may be enforced by civil action. Both the principal and the sureties shall be joined as parties to the action.

(b) If the bond was given in an action or proceeding, the action shall be commenced in the court in which the action or proceeding was pending. If the bond was given other than in an action or proceeding, the action shall be commenced in any court of competent jurisdiction, and the amount of damage claimed in the action, not the amount of the bond, determines the jurisdiction of the court.

(c) A cause of action on a bond may be transferred and assigned as other causes of action.

996.440. (a) If a bond is given in an action or proceeding, the liability on the bond may be enforced on motion made in the court without the necessity of an independent action.

(b) The motion shall not be made until after entry of the final judgment in the action or proceeding in which the bond is given and the time for appeal has expired or, if an appeal is taken, until the appeal is finally determined. The motion shall not be made or notice of motion served more than one year after the later of the preceding dates.

(c) Notice of motion shall be served on the principal and sureties at least 30 days before the time set for hearing of the motion. The notice shall state the amount of the claim and shall be supported by affidavits setting forth the facts on which the claim is based. The notice and affidavits shall be served in accordance with any procedure authorized by Chapter 5 (commencing with Section 1010).

(d) Judgment shall be entered against the principal and sureties in accordance with the motion unless the principal or sureties serve and file affidavits in opposition to the motion showing such facts as may be deemed by the judge hearing the motion sufficient to present a triable issue of fact. If such a showing is made, the issues to be tried shall be specified by the court. Trial shall be by the court and shall be set for the earliest date convenient to the court, allowing sufficient time for such discovery proceedings as may be requested.

(e) The principal and sureties shall not obtain a stay of the

proceedings pending determination of any conflicting claims among beneficiaries.

996.450. No provision in a bond is valid that attempts by contract to shorten the period prescribed by Section 337 or other statute for the commencement of an action on the bond or the period prescribed by Section 996.440 for a motion to enforce a bond. This section does not apply if the principal, beneficiary, and surety accept a provision for a shorter period in a bond.

996.460. (a) Notwithstanding Section 2845 of the Civil Code, a judgment of liability on a bond shall be in favor of the beneficiary and against the principal and sureties and shall obligate each of them jointly and severally.

(b) The judgment shall be in an amount determined by the court.

(c) A judgment that does not exhaust the full amount of the bond decreases the amount of the bond but does not discharge the bond. The liability on the bond may be enforced thereafter from time to time until the amount of the bond is exhausted.

(d) The judgment may be enforced by the beneficiary directly against the sureties. Nothing in this section affects any right of subrogation of a surety against the principal or any right of a surety to compel the principal to satisfy the judgment.

996.470. (a) Notwithstanding any other statute, the aggregate liability of a surety to all persons for all breaches of the condition of a bond is limited to the amount of the bond. Except as otherwise provided by statute, the liability of the principal is not limited to the amount of the bond.

(b) If a bond is given in an amount greater than the amount required by statute or by order of the court or officer pursuant to statute, the liability of the surety on the bond is limited to the amount required by statute or by order of the court or officer, unless the amount of the bond has been increased voluntarily or by agreement of the parties to satisfy an objection to the bond made in an action or proceeding.

(c) The liability of a surety is limited to the amount stipulated in any of the following circumstances:

(1) The bond contains a stipulation pursuant to Section 995.520 that the liability of a personal surety is limited to the worth of the surety.

(2) The bond contains a stipulation that the liability of a surety is an amount less than the amount of the bond pursuant to a statute that provides that the liability of sureties in the aggregate need not exceed the amount of the bond.

996.480. (a) If the nature and extent of the liability of the principal is established by final judgment of a court and the time for appeal has expired or, if an appeal is taken, the appeal is finally determined and the judgment is affirmed:

(1) A surety may make payment on a bond without awaiting enforcement of the bond. The amount of the bond is reduced to the extent of any payment made by the surety in good faith.

(2) If the beneficiary makes a claim for payment on a bond given in an action or proceeding after the liability of the principal is so established and the surety fails to make payment, the surety is liable for costs incurred in obtaining a judgment against the surety, including a reasonable attorney's fee, and interest on the judgment from the date of the claim, notwithstanding Section 996.470.

(b) Partial payment of a claim by a surety shall not be considered satisfaction of the claim and the beneficiary may enforce the liability on the bond. If a right is affected or a license is suspended or revoked until payment of a claim, the right continues to be affected and the license continues to be suspended or revoked until the claim is satisfied in full.

996.490. (a) Payment by a surety of the amount of a bond constitutes a full discharge of all the liability of the surety on the bond.

(b) Each surety is liable to contribution to cosureties who have made payment in proportion to the amount for which each surety is liable.

996.495. A judgment of liability on a bond may be enforced in the same manner and to the same extent as other money judgments.

Article 15. Enforcement Lien

996.510. This article applies to proceedings for the benefit of the state to enforce the liability on a bond executed to, in favor of, or payable to the state or the people of the state, including but not limited to an official bond.

996.520. The person enforcing the liability may file with the court in the proceedings an affidavit stating the following:

(a) The bond was executed by the defendant or one or more of the defendants (designating whom).

(b) The bond is one to which this article applies.

(c) The defendant or defendants have real property or an interest in real property (designating the county or counties in which the real property is situated).

(d) The liability is being enforced for the benefit of the state.

996.530. The clerk receiving the affidavit shall certify to the recorder of the county in which the real property is situated all of the following:

(a) The names of the parties.

(b) The court in which the proceedings are pending.

(c) The amount claimed.

(d) The date of commencement of the proceedings.

996.540. (a) Upon receiving the certificate the county recorder shall endorse upon it the time of its receipt.

(b) The certificate shall be filed and recorded in the same manner as notice of the pendency of an action affecting real property.

996.550. (a) Any judgment recovered is a lien upon all real property belonging to the defendant situated in any county in which

the certificate is filed, from the filing of the certificate.

(b) The lien is for the amount for which the owner of the real property is liable upon the judgment.

996.560. If an agreement to sell real property affected by the lien created by the filing of a certificate was made before the filing of the certificate and the purchase price under the agreement was not due until after the filing of the certificate, and the purchaser is otherwise entitled to specific performance of the agreement:

(a) The court in an action to compel specific performance of the agreement shall order the purchaser to pay the purchase price, or so much of the purchase price as may be due, to the State Treasurer, and to take the State Treasurer's receipt for payment.

(b) Upon payment, the purchaser is entitled to enforcement of specific performance of the agreement. The purchaser takes the real property free from the lien created by the filing of the certificate.

(c) The State Treasurer shall hold the payment pending the proceedings referred to in the certificate. The payment is subject to the lien created by the filing of the certificate.

SEC. 2. The Judicial Council may prescribe the form of a bond or undertaking and other forms relating to bonds and undertakings given in an action or proceeding. A form prescribed by the Judicial Council is deemed to comply with Chapter 2 (commencing with Section 995.010) of Title 14 of Part 2 of the Code of Civil Procedure.

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 999

An act to amend Section 2112 of, and to add Sections 2114 and 2115 to, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. The Legislature finds and declares that the misdemeanor penalties of the Unemployment Insurance Code are inadequate for two types of unemployment insurance fraud, and intends by this act to provide felony penalties for the following:

(a) Those situations where an employer, in order to subsidize its payroll, makes false reports regarding an employee's earning or work status and the employee claims unemployment insurance benefits

available pursuant to those false reports.

(b) Those situations where a person registers a fictitious employer with, or reports a fictitious employee to, the Employment Development Department and reports payment of fictitious wages for the purpose of establishing a claim for unemployment insurance or unemployment disability insurance benefits.

SEC. 2. Section 2112 of the Unemployment Insurance Code is amended to read:

2112. Unless otherwise specified in subdivision (b) of Section 2101 or in Section 2114 or 2115, every person who willfully violates any provision of this division or any authorized regulation promulgated or published in accordance with this division, is guilty of a misdemeanor.

SEC. 3. Section 2114 is added to the Unemployment Insurance Code, to read:

2114. Any individual who, with the intent to defraud, reports or registers a fictitious employer or fictitious employee, and fictitious wages, to the department in order to obtain benefits or increase any benefit or payment in an aggregate amount of four hundred dollars ($400) or more, whether for the maker or for any other person, is punishable by imprisonment in the county jail for a period not to exceed one year, or in the state prison, or by a fine of not more than five thousand dollars ($5,000), or both such fine and imprisonment.

SEC. 4. Section 2115 is added to the Unemployment Insurance Code, to read:

2115. Any employing unit or any officer or agent of an employing unit who, with the intent to defraud, falsely reports the amount of wages earned by an employee or who falsely reports the time period in which wages are earned by an employee for the purpose of obtaining or increasing any benefit amount for that employee, is punishable by imprisonment in the county jail not to exceed one year, or in the state prison, or by fine of not more than five thousand dollars ($5,000), or both such fine and imprisonment.

SEC. 5. 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 1000

An act to amend Section 45060 of the Education Code, relating to school district employees.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 45060 of the Education Code is amended to read:

45060. The governing board of each school district, when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying the dues of the employee for membership in any local professional organization or in any statewide professional organization, or in any other professional organization affiliated or otherwise connected with a statewide professional organization which authorizes such statewide organization to receive membership dues on its behalf and for the purpose of paying his or her pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district of such dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period.

Unless otherwise provided in an agreement negotiated pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the governing board shall, no later than the 10th day of each pay period for certificated employees, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the dues deductions made with respect to that organization for the previous pay period and shall transmit the total amount to that organization no later than the 15th day of each pay period for certificated employees. When timely transmittal of dues payments by a county is necessary for a school district to comply with the provisions of this section, the county shall act in a timely manner. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making the deduction.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is a change in the amount required for the payment to the organization, the employee organization shall provide the employee with

adequate and necessary data on the change at a time sufficiently prior to the effective date of the change to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the change at a time sufficiently prior to the effective date of the change to allow the employer an opportunity to make the necessary adjustments and with a copy of the notification of the change which has been sent to all concerned employees.

The governing board shall not require the completion of a new deduction authorization when a dues change has been effected or at any other time without the express approval of the concerned employee organization.

SEC. 2. Section 45060 of the Education Code is amended to read:

45060. Except as provided in Section 45061, the governing board of each school district, when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying the dues of the employee for membership in any local professional organization or in any statewide professional organization, or in any other professional organization affiliated or otherwise connected with a statewide professional organization which authorizes the statewide organization to receive membership dues on its behalf and for the purpose of paying his or her pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district of the dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period.

Unless otherwise provided in an agreement negotiated pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the governing board shall, no later than the 10th day of each pay period for certificated employees, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the dues deductions made with respect to that organization for the previous pay period and shall transmit the total amount to that organization no later than the 15th day of each pay period for certificated employees. When timely transmittal of dues payments by a county is necessary for a school district to comply with the provisions of this section, the county shall act in a timely manner. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making the deduction.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is a change in the amount required for the payment to the organization, the employee organization shall provide the employee with

adequate and necessary data on the change at a time sufficiently prior to the effective date of the change to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the change at a time sufficiently prior to the effective date of the change to allow the employer an opportunity to make the necessary adjustments and with a copy of the notification of the change which has been sent to all concerned employees.

The governing board shall not require the completion of a new deduction authorization when a dues change has been effected or at any other time without the express approval of the concerned employee organization.

SEC. 3. Section 45060 of the Education Code is amended to read:

45060. Except as provided in Section 45062, the governing board of each school district, when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying the dues of the employee for membership in any local professional organization or in any statewide professional organization, or in any other professional organization affiliated or otherwise connected with a statewide professional organization which authorizes the statewide organization to receive membership dues on its behalf and for the purpose of paying his or her pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district of the dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period.

Unless otherwise provided in an agreement negotiated pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the governing board shall, no later than the 10th day of each pay period for certificated employees, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the dues deductions made with respect to that organization for the previous pay period and shall transmit the total amount to that organization no later than the 15th day of each pay period for certificated employees. When timely transmittal of dues payments by a county is necessary for a school district to comply with the provisions of this section, the county shall act in a timely manner. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making the deduction.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is a change in the amount required for the payment to the organization, the employee organization shall provide the employee with

adequate and necessary data on the change at a time sufficiently prior to the effective date of the change to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the change at a time sufficiently prior to the effective date of the change to allow the employer an opportunity to make the necessary adjustments and with a copy of the notification of the change which has been sent to all concerned employees.

The governing board shall not require the completion of a new deduction authorization when a dues change has been effected or at any other time without the express approval of the concerned employee organization.

SEC. 4. Section 45060 of the Education Code is amended to read:

45060. Except as provided in Sections 45061 and 45062, the governing board of each school district, when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying the dues of the employee for membership in any local professional organization or in any statewide professional organization, or in any other professional organization affiliated or otherwise connected with a statewide professional organization which authorizes the statewide organization to receive membership dues on its behalf and for the purpose of paying his or her pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district of the dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period.

Unless otherwise provided in an agreement negotiated pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the governing board shall, no later than the 10th day of each pay period for certificated employees, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the dues deductions made with respect to that organization for the previous pay period and shall transmit the total amount to that organization no later than the 15th day of each pay period for certificated employees. When timely transmittal of dues payments by a county is necessary for a school district to comply with the provisions of this section, the county shall act in a timely manner. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making the deduction.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is a change in the amount required for the payment to the organization,

the employee organization shall provide the employee with adequate and necessary data on the change at a time sufficiently prior to the effective date of the change to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the change at a time sufficiently prior to the effective date of the change to allow the employer an opportunity to make the necessary adjustments and with a copy of the notification of the change which has been sent to all concerned employees.

The governing board shall not require the completion of a new deduction authorization when a dues change has been effected or at any other time without the express approval of the concerned employee organization.

SEC. 5. 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. 6. It is the intent of the Legislature that if this bill and Assembly Bill 404 or Assembly Bill 2967, or both, are chaptered and become effective January 1, 1983, each of the bills amend Section 45060 of the Education Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill 404 are both chaptered and become effective January 1, 1983, both bills amend Section 45060 of the Education Code, but Assembly Bill 2967 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 404, the amendments proposed by both bills shall be given effect and incorporated in Section 45060 in the form set forth in Section 2 of this act. Therefore, if this bill and Assembly Bill 404 are both chaptered and become effective January 1, 1983, both bills amend Section 45060, this bill is chaptered after Assembly Bill 404, and Assembly Bill 2967 is not chaptered or as chaptered does not amend that section, Sections 2 of this act shall be operative and Sections 1, 3, and 4 of this act shall not become operative.

(2) If this bill and Assembly Bill 2967 are both chaptered and become effective January 1, 1983, both bills amend Section 45060 of the Education Code, but Assembly Bill 404 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 2967, the amendments proposed by both bills shall be given effect and incorporated in Section 45060 in the form set forth in Section 3 of this act. Therefore, if this bill and Assembly Bill 2967 are both chaptered and become effective January 1, 1983, both bills amend Section 45060, this bill is chaptered after Assembly Bill 2967, and Assembly Bill 404 is not chaptered or as chaptered does not amend that section, Section 3 of this act shall be operative and Sections 1, 2, and 4 of this act shall not become operative.

(3) If this bill and Assembly Bill 404 and Assembly Bill 2967 are all chaptered and become effective January 1, 1983, all three bills amend Section 45060 of the Education Code, and this bill is chaptered after Assembly Bill 404 and Assembly Bill 2967, the amendments proposed by all three bills shall be given effect and incorporated in Section 45060 in the form set forth in Section 4 of this act. Therefore, if this bill and Assembly Bill 404 and Assembly Bill 2967 are all chaptered and become effective January 1, 1983, all three bills amend Section 45060 of the Education Code, and this bill is chaptered after Assembly Bill 404 and Assembly Bill 2967, Section 4 of this act shall be operative and Sections 1, 2, and 3 of this act shall not become operative.

CHAPTER 1001

An act to amend Section 1798.61 of the Civil Code, relating to the Information Practices Act of 1977.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 1798.61 of the Civil Code is amended to read:

1798.61. (a) Nothing in this chapter shall prohibit the release of only names and addresses of persons possessing licenses to engage in professional occupations or of persons who are registered with, or are holding licenses or permits issued by, the State Board of Equalization.

(b) Nothing in this chapter shall prohibit the release of only names and addresses of persons applying for licenses to engage in professional occupations for the sole purpose of providing those persons with informational materials relating to available professional educational materials or courses.

SEC. 2. Any increased state costs incurred as a result of implementing this act shall be paid out of fees received by the State Board of Equalization for the sale of names and addresses of persons registered with or holding licenses and permits issued by the board.

CHAPTER 1002

An act making an appropriation relating to parks and recreation, and in this connection amending and supplementing the Budget Act of 1982 by adding Item 3790-303-721 thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1 Item 3790-303-721 is added to the Budget Act of 1982 (Chapter 326, Statutes of 1982), to read:

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM

3790-303-721—For capital outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1980, Crystal Cove State Park—Working drawings for full park development, development and interpretation 5,000,000

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may be operative at the earliest possible time during the 1982–83 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1003

An act to amend Section 44909 of the Education Code, relating to school employees.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 44909 of the Education Code is amended to read:

44909. The governing board of any school district may employ persons possessing an appropriate credential as certificated employees in programs and projects to perform services conducted under contract with public or private agencies, or categorically funded projects which are not required by federal or state statutes. The terms and conditions under which such persons are employed shall be mutually agreed upon by the employee and the governing board and such agreement shall be reduced to writing. Service pursuant to this section shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee unless (1) such person has served pursuant to this section for at least 75 percent of the number

of days the regular schools of the district by which he is employed are maintained and (2) such person is subsequently employed as a probationary employee in a position requiring certification qualifications. Such persons may be employed for periods which are less than a full school year and may be terminated at the expiration of the contract or specially funded project without regard to other requirements of this code respecting the termination of probationary or permanent employees other than Section 44918.

Whenever any certificated employee in the regular educational program is assigned to a categorically funded project not required by federal or state statute and the district employs an additional credentialed person to replace that certificated employee, the replacement certificated employee shall be subject to the provisions of Section 44918.

This section shall not be construed to apply to any regularly credentialed employee who has been employed in the regular educational programs of the school district as a probationary employee before being subsequently assigned to any one of these programs.

CHAPTER 1004

An act to amend Sections 736, 1070, 3671, 3774, and 5285 of the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 736 of the Public Utilities Code is amended to read:

736. All complaints for damages resulting from the violation of any of the provisions of Sections 494 or 532 shall either be filed with the commission, or, where concurrent jurisdiction of the cause of action is vested in the courts of this state, in any court of competent jurisdiction within three years from the time the cause of action accrues, and not after. If claim for the asserted damages has been presented in writing to the public utility concerned within the period of three years, the period shall be extended to include six months from the date notice in writing is given by the public utility to the claimant of the disallowance of the claim, or of any part or parts thereof specified in the notice.

Whenever the commission institutes an investigation of unauthorized undercharge by any public utility, the institution of the investigation by the commission shall toll the three-year period specified in this section until the commission has rendered its initial decision on the matter. The commission shall render its final decision

within two years of the date of the order instituting the investigation.

SEC. 2. Section 1070 of the Public Utilities Code is amended to read:

1070. The commission may at any time for a good cause suspend, and upon notice to the holder of an operating right acquired by virtue of operations conducted on July 26, 1917, or to the grantee of any certificate, and upon opportunity to be heard, revoke, alter, or amend, any such operative right or certificate.

As an alternative to the suspension, revocation, alteration, or amendment of an operating right or certificate, the commission may impose upon the holder of the operating right or certificate a fine of not exceeding five thousand dollars ($5,000) for a first offense and not exceeding ten thousand dollars ($10,000) for any second or succeeding offense. The commission may assess interest upon any fine imposed, the interest to commence upon the day the payment of the fine is delinquent. All fines and interest collected shall be deposited at least once each month in the State Treasury to the credit of the General Fund.

SEC. 3. Section 3671 of the Public Utilities Code is amended to read:

3671. All complaints for the collection of lawful charges, or any part thereof, of highway permit carriers may be filed in any court of competent jurisdiction within three years from the time the cause of action accrues, and not thereafter; except that if a highway permit carrier presents its claim or demand in writing to the person from whom the lawful charges, or any part thereof, are alleged to be due within the period of three years, that period shall be extended to include six months from the date notice in writing is given to the highway permit carrier by the person of refusal to pay the demand, or any part thereof, specified in the notice of refusal.

Whenever the commission institutes an investigation of unlawful undercharges by a highway permit carrier, the institution of the investigation by the commission shall toll the three-year period specified in this section until the commission has rendered its initial decision on the matter. The commission shall render its final decision within two years of the date of the order instituting the investigation.

SEC. 4. Section 3774 of the Public Utilities Code is amended to read:

3774. The commission may cancel, revoke, or suspend the operating permit or permits of any highway carrier upon any of the following grounds:

(a) Any illegally conducted highway carrier operations.

(b) The violation of any of the provisions of this chapter, or of any operating permit issued thereunder.

(c) The violation of any order, decision, rule, regulation, direction, demand, or requirement established by the commission pursuant to this chapter.

(d) The conviction of the highway carrier of any misdemeanor under this chapter.

(e) The rendition of a judgment against the highway carrier for any penalty imposed under this chapter.

(f) The failure of a highway carrier to pay any fee imposed upon the carrier within the time required by law.

As an alternative to the cancellation, revocation, or suspension of an operating permit or permits, the commission may impose upon the holder of the permit or permits a fine of not exceeding five thousand dollars ($5,000) for a first offense and not exceeding ten thousand dollars ($10,000) for any second or succeeding offense. The commission may assess interest upon any fine imposed, the interest to commence upon the day the payment of the fine is delinquent. All fines and interest collected shall be deposited at least once each month in the State Treasury to the credit of the General Fund.

SEC. 5. Section 5285 of the Public Utilities Code is amended to read:

5285. The permit of any household goods carrier may, upon application of the holder thereof, be amended or revoked, in whole or in part, or may, upon complaint or on the commission's own initiative, after notice and opportunity to be heard, be suspended, changed or revoked, in whole or in part, for failure to comply with any provision of this chapter or with any lawful order, rule, or regulation of the commission promulgated thereunder or with any term, condition, or limitation of the permit. A household goods carrier which requests a hearing within 30 days after receiving the notice and opportunity to be heard shall be granted a hearing. The right to operate under any household goods carrier permit may be suspended by the commission, upon reasonable notice of not less than 15 days to the holder without hearing or other proceedings, for failure to comply, and until compliance, with Section 5161 or with any lawful order, rule, or regulation of the commission promulgated thereunder.

As an alternative to the cancellation, revocation, or suspension of an operating permit or permits, the commission may impose upon the holder of the permit or permits a fine of not exceeding five thousand dollars ($5,000) for a first offense and not exceeding ten thousand dollars ($10,000) for any second or succeeding offense. All fines collected shall be deposited at least once each month in the State Treasury to the credit of the General Fund.

CHAPTER 1005

An act relating to fiscal affairs, and making an appropriation therefor.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the Off-Highway Vehicle Fund to the Department of Parks and Recreation and shall be loaned to the 51st District Agricultural Association by the department at the rate of interest earned by funds in the pooled money account. The loan shall be for the purpose of producing an off-highway vehicle fair at the Hungry Valley State Vehicular Recreation Area. Terms and conditions relating to repayment of the loan shall be determined by the Director of the Department of Parks and Recreation and shall be approved by the 51st District Agricultural Association.

The 51st District Agricultural Association is hereby authorized to sell the approximately 7.2 acres of land bordered on the south by Le Marsh Street, on the north by Devonshire Street, and on the east by Lindley Avenue. The proceeds of this sale of this property shall be deposited in an interest-bearing trust account and the principal in that account shall be used only for the acquisition of land for use as a permanent fairground site, except that if any portion of the loan remains unpaid at the time that interest commences on this account, all interest earned on the account or on any trust deed from the sale shall be applied to the loan repayment until the time the loan is repaid in full.

Moneys received by the department in repayment of the loan shall be deposited in the Off-Highway Vehicle Fund. Upon repayment of the loan, any revenues of the fair and interest earned from the sale of the property may be used for any authorized activity or purpose of the 51st District Agricultural Association.

CHAPTER 1006

An act to amend and repeal Section 6159 of, and to add Section 65852.5 to, the Government Code, relating to local government.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 6159 of the Government Code is amended to read:

6159. (a) As used in this section:

(1) "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.

(2) "Card issuer" means any person who issues a credit card and purchases credit card drafts or the agent of such person for such

purposes with respect to such card.

(3) "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.

(4) "Draft purchaser" means any person who purchases credit card drafts.

(b) Subject to the provisions of subdivision (c), a court, city, or other public agency may authorize the acceptance of a credit card for payment for the deposit of bail or for any fine for any offense not declared to be a felony, or for payment of any towage or storage costs for a vehicle which has been removed from a highway, or from public or private property, as a result of parking violations, or for payment for services rendered by any county or city and county.

(c) A court desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of its county board of supervisors. A city desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of its city council. Any other public agency desiring to authorize the use of a credit card pursuant to subdivision (b) shall obtain the approval of the governing body which has fiscal responsibility for such agency. After approval is obtained, a contract may be executed with one or more credit card issuers or draft purchasers. The contract shall provide for:

(1) The respective rights and duties of the court, city, county, city and county, or other public agency and card issuer or draft purchaser regarding the presentment, acceptability and payment of credit card drafts;

(2) The establishment of a reasonable means by which to facilitate payment settlements; and

(3) The payment to the card issuer or draft purchaser of a reasonable fee or discount.

(4) Such other matters appropriately included in contracts with respect to the purchase of credit card drafts as may be agreed upon by the parties to the contract.

(d) The honoring of a credit card pursuant to subdivision (b) hereof constitutes payment of the amount owing to the court, city, county, city and county, or other public agency as of the date the credit card is honored provided the credit card draft is paid following its due presentment to a card issuer or draft purchaser.

(e) If any credit card draft is not paid following due presentment to a card issuer or draft purchaser or is charged back to the court, city, county, city and county, or other public agency for any reason, any record of payment made by the court, city, or other public agency honoring the credit card shall be void. Any receipt issued in acknowledgment of payment shall also be void. The obligation of the cardholder shall continue as an outstanding obligation as though no payment had been attempted.

(f) Fees or discounts provided for under paragraph (3) of

subdivision (c) shall be deducted or accounted for prior to any statutory or other distribution of funds received from the card issuer or draft purchaser.

SEC. 2. Section 6159 of the Government Code, as added by Section 2 of Chapter 422 of the Statutes of 1980, is repealed.

CHAPTER 1007

An act to amend Sections 1163 and 1190 of the Harbors and Navigation Code, relating to pilots.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 1163 of the Harbors and Navigation Code is amended to read:

1163. (a) (1) Each retired or disabled pilot shall receive, as a monthly pension, that amount which is seventy-five dollars ($75) multiplied by the number of full years of service he performed as a pilot licensed under this division.

(2) A pilot who retires or becomes disabled shall not begin to receive his pension until the benefit year next following the date on which he retires or becomes disabled.

(3) No retired pilot shall receive benefits pursuant to the pension plan in any benefit year unless his resignation as an active pilot specifying a proposed date of retirement was submitted, in writing, to the Board of Pilot Commissioners, prior to December if his retirement is to be effective the first day of the following January or prior to June if his retirement is to be effective the first day of the following July. His resignation shall become effective on either January 1 or July 1 as specified in the written resignation.

(4) If a retired or disabled pilot who is receiving a pension dies without a wife surviving him, his successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(b) (1) The widow of a deceased pilot who would be eligible for a pension pursuant to subdivision (c) of Section 1164 shall receive, as a monthly pension, one-half of the amount that her deceased husband would have received as a pension pursuant to this section had he lived.

(2) If a retired or disabled pilot receiving a pension dies, his widow shall continue to receive the full pension to which her deceased husband was entitled for the balance of the benefit year, after which she shall receive the amount specified in paragraph (1) of this subdivision.

(3) When a widow receiving a pension dies, her successor in

interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(c) For the purposes of the computations described in paragraph (1) of subdivision (a) of this subdivision, six months or more of service by a pilot shall be considered a full year.

SEC. 2. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. Every vessel spoken inward or outward bound, shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(a) Seven dollars and thirty-five cents ($7.35) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 20.75 mills ($0.02075) per high gross registered ton.

(b) A minimum charge for bar pilotage shall be six hundred dollars ($600) for each vessel piloted.

(c) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

CHAPTER 1008

An act to amend Section 28990 of the Public Utilities Code, relating to transit districts.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 28990 of the Public Utilities Code is amended to read:

28990. (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. 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 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 1009

An act to amend Sections 22051, 22452, 22464, 22481, 22608, 24409, 24452, 24455, 24464, 24481, 24600, 24601, and 24608 of, to amend and renumber Section 24451.2 of, and to add Sections 22458.6 and 24407.5 to, the Financial Code, relating to loans.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 22051 of the Financial Code is amended to read:

22051. This division does not apply to the following:

(a) 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.

(b) 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.

(c) 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 "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(d) Any corporation created pursuant to the provisions of Part 4 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

SEC. 2. Section 22452 of the Financial Code is amended to read:

22452. (a) As used in this division, "open end loan" means a loan or loans made by a licensee pursuant to a loan agreement which expressly states that it is made pursuant to this section and pursuant

to which:

(1) The licensee may permit the borrower to obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower.

(2) The amount of each advance and the charges and other permitted costs are debited to an account.

(3) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs and expenses.

(4) The borrower has the privilege of paying the account in full at any time or in monthly installments.

(b) Subject to the written approval of the commissioner of the licensee's plan of business for making open end loans as not being misleading or deceptive and subject to regulations the commissioner may promulgate with respect to open end loans under Section 22400, a licensee may make open end loans pursuant to this section and may contract for and receive thereon charges as set forth in Sections 22451, 22451.1, and 22454.1. These charges may be calculated on an amount not exceeding the greater of:

(1) The actual daily unpaid balances of the open end account in the billing cycle for which the charge is made, in which case one-thirtieth of the monthly rate may be charged for each day the unpaid balance is outstanding.

(2) The average daily unpaid balance of the open end account in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle divided by the number of days in that cycle. The amount unpaid on a day is determined by adding to any balance unpaid as of the beginning of that day all advances and other debits and deducting all payments and other credits made or received as of that day.

The billing cycle shall be monthly. A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from the regular date.

(c) No licensee shall enter into any agreement for an open end consumer loan that provides for a minimum monthly payment that would result in the full repayment of principal over more than the maximum periods set forth below opposite the respective size of loans.

Principal amount of loan	*Maximum period*
Less than $1,500	24 months and 15 days
$1,500 but less than $2,500	36 months and 15 days
$2,500 but less than $4,000	48 months and 15 days
$4,000 but less than $6,000	60 months and 15 days
$6,000 but less than $10,000	84 months and 15 days

The minimum payment shall be determined by the amount of the initial loan advance and shall continue at that amount until a subse-

quent loan advance is made, at which time the minimum payment shall be determined by the amount of the unpaid balance of the loan after the advance and including the advance. Minimum payments after each advance shall be determined in the same manner.

(d) On open end loans the licensee may contract for and receive the fees, costs and expenses permitted on other loans, including those permitted by subdivisions (a), (b), (c), and (d) of Section 22458 and subdivision (d) of Section 22458.1, except that the charge for credit life insurance under Section 22458.1 shall be on a monthly basis and shall be actuarially consistent with the single premium rate for the same coverage approved or fixed by the Insurance Commissioner under Section 22458.1, or in accordance with a schedule of monthly rates filed with and not disapproved by the Commissioner of Insurance.

(e) A licensee may not take real property as security, in whole or in part, for an open end loan under this section.

(f) Sections 22454 and 22455 shall apply to open end loans with the following variations:

(1) To comply with Section 22454, the loan contract shall provide for payment of minimum payments complying with subdivision (c).

(2) To comply with Section 22455, the licensee shall deliver to or at the direction of the borrower at the time of each loan advance an amount equal to the face value of the advance.

(g) In lieu of subdivision (a) of Section 22458.1, Section 22468, and subdivision (a) of Section 22473, the following provisions shall apply to open end loans:

(1) A licensee may provide insurance on the life of one or more borrowers, with his or her consent, the form to be approved by the Insurance Commissioner, and in an amount not in excess of the amount of the indebtedness. If life insurance is provided, and if the insured dies when there is an outstanding open end loan indebtedness, the insurance shall be sufficient to pay the total amount due on the loan outstanding on the date of his or her death without any exception, reservation or limitation. Any life insurance as is provided shall be in force as soon as the loan is made or coverage is agreed upon, whichever is later. No credit life insurance written in connection with an open end loan shall be canceled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of the payments is past due for a period of 90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

(2) The open end loan agreement shall contain the name, address, and license number of the personal property broker and shall disclose the nature of the security taken, the method of determining the minimum payments which will be required to repay the initial advance and any subsequent advances on the loan, and the agreed rate of charge.

(3) Except in the case of an account which the licensee deems to

be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account or with respect to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle for payments, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charge determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System under the Federal Consumer Credit Protection Act, the balance on which the finance charge was computed, the closing date of the billing cycle, the outstanding balance on that date, and the minimum monthly payment required in the absence of any additional advance. If there has been any change in the nature of the security for the loan since the next preceding advance, the statement shall contain or be accompanied by a statement of the nature of the security for the loan after such change.

(h) Subdivision (e) of Section 22473 shall not apply to an open end loan with respect to which there is no balance outstanding if the open end loan agreement continues in effect.

(i) Section 22480 shall not apply to open end loans.

(j) Nothing in this section may be construed to limit the authority of the commissioner to disapprove advertising with respect to open end loans pursuant to Section 22414.

(k) This section shall not apply to loans other than open end loans.

SEC. 3. Section 22458.6 is added to the Financial Code, to read:

22458.6. On any loan which is secured by real property the fee to be paid to the trustee for reconveyance of the trust deed may be collected by the licensee for transmittal to the trustee. The fee is not included in charges as defined in this article or in determining the applicable maximum charges which may be made under this article.

SEC. 4. Section 22464 of the Financial Code is amended to read:

22464. No licensee shall knowingly induce any borrower to split up or divide any loan with any other licensee. No licensee shall induce or permit any borrower to be or to become obligated directly or indirectly, or both, under more than one contract of loan at the same time with the same licensee for the purpose or with the result of obtaining a higher rate of charge than would otherwise be permitted by this article except as otherwise required by the federal Equal Credit Opportunity Act (15 U.S.C. Sec. 1691 et seq; P.L. 93-495) and Regulation B promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 202 et seq.).

For the purposes of this section, "borrower" includes any husband and wife whether jointly or severally obligated.

SEC. 5. Section 22481 of the Financial Code is amended to read:

22481. With respect to precomputed loans, licensees shall be sub-

ject only to, comply only with and derive authority only from Sections 22480 and 22482, notwithstanding any other provision of law which is not within this division.

SEC. 6. Section 22608 of the Financial Code is amended to read:

22608. (a) The cost of each examination of a licensee or a person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost of an examination, the commissioner may use the estimated average hourly cost for all persons performing examinations of licensees or other persons subject to this division for the fiscal year.

(b) For the purpose of this section only, no person other than a licensee shall be deemed to be a person subject to this division until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or by a judicial hearing in any court of competent jurisdiction.

SEC. 7. Section 24407.5 is added to the Financial Code, to read:

24407.5. Nothing contained in Sections 24406 and 24407 shall require the maintenance or preservation of original records, provided that any information requested by the commissioner can be furnished within 48 hours excluding Saturdays, Sundays, and holidays as defined in Sections 6700 and 6701 of the Government Code.

SEC. 8. Section 24409 of the Financial Code is amended to read:

24409. The commissioner shall require that information pertaining to loans be stated separately in the annual reports as follows:

(a) For loans of a principal amount of less than ten thousand dollars ($10,000).

(b) For loans of ten thousand dollars ($10,000) or more and any other business.

(c) The commissioner may permit information pertaining to expenses in the annual report to be reported in totals by categories without separation as to types of loans, and may make such other rules from time to time as may be necessary to obtain adequate information pertaining to the licensee.

The report shall be made under oath and in the form prescribed by the commissioner.

SEC. 9. Section 24451.2 of the Financial Code is amended and renumbered to read:

24451.1. As an alternative to the charges authorized by Section 24451 a licensee may contract for and receive charges at a rate not exceeding 1.6 percent per month on the unpaid principal balance.

This section shall become operative on January 1, 1984.

SEC. 10. Section 24452 of the Financial Code is amended to read:

24452. (a) As used in this division, "open end loan" means a loan or loans made by a licensee pursuant to a loan agreement which expressly states that it is made pursuant to this section and pursuant

to which:

(1) The licensee may permit the borrower to obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower.

(2) The amount of each advance and the charges and other permitted costs are debited to an account.

(3) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs and expenses.

(4) The borrower has the privilege of paying the account in full at any time or in monthly installments.

(b) Subject to the written approval of the commissioner of the licensee's plan of business for making open end loans as not being misleading or deceptive and subject to regulations the commissioner may promulgate with respect to open end loans under Section 24400, a licensee may make open end loans pursuant to this section and may contract for and receive thereon charges as set forth in Sections 24451, 24451.1, and 24454.1. These charges may be calculated on an amount not exceeding the greater of:

(1) The actual daily unpaid balances of the open end account in the billing cycle for which the charge is made, in which case one-thirtieth of the monthly rate may be charged for each day the unpaid balance is outstanding.

(2) The average daily unpaid balance of the open end account in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle divided by the number of days in that cycle. The amount unpaid on a day is determined by adding to any balance unpaid as of the beginning of that day all advances and other debits and deducting all payments and other credits made or received as of that day.

The billing cycle shall be monthly. A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from the regular date.

(c) No licensee shall enter into any agreement for an open end consumer loan that provides for a minimum monthly payment that would result in the full repayment of principal over more than the maximum periods set forth below opposite the respective size of loans.

Principal amount of loan	*Maximum period*
Less than $1,500	24 months and 15 days
$1,500 but less than $2,500	36 months and 15 days
$2,500 but less than $4,000	48 months and 15 days
$4,000 but less than $6,000	60 months and 15 days
$6,000 but less than $10,000	84 months and 15 days

The minimum payment shall be determined by the amount of the initial loan advance and shall continue at that amount until a

subsequent loan advance is made, at which time the minimum payment shall be determined by the amount of the unpaid balance of the loan after the advance and including the advance. Minimum payments after each advance shall be determined in the same manner.

(d) On open end loans the licensee may contract for and receive the fees, costs, and expenses permitted on other loans, including those permitted by subdivisions (a), (b), (c), and (d) of Section 24458 and subdivision (d) of Section 24458.1, except that the charge for credit life insurance under Section 24458.1 shall be on a monthly basis and shall be actuarially consistent with the single premium rate for the same coverage approved or fixed by the Insurance Commissioner under Section 24458.1, or in accordance with a schedule of monthly rates filed with and not disapproved by the Insurance Commissioner.

(e) A licensee may not take real property as security, in whole or in part, for an open end loan under this section.

(f) Sections 24454 and 24455 shall apply to open end loans with the following variations:

(1) To comply with Section 24454, the loan contract shall provide for payment of minimum payments complying with subdivision (c).

(2) To comply with Section 24455, the licensee shall deliver to or at the direction of the borrower at the time of each loan advance an amount equal to the face value of the advance.

(g) In lieu of subdivision (a) of Section 24458.1, Section 24468, and subdivision (a) of Section 24473, the following provisions shall apply to open end loans:

(1) A licensee may provide insurance on the life of one or more borrowers, with his or her consent, the form to be approved by the Insurance Commissioner, and in an amount not in excess of the amount of the indebtedness. If life insurance is provided, and if the insured dies when there is an outstanding open end loan indebtedness, the insurance shall be sufficient to pay the total amount due on the loan outstanding on the date of his or her death without any exception, reservation or limitation. Any life insurance as is provided shall be in force as soon as the loan is made or coverage is agreed upon, whichever is later. No credit life insurance written in connection with an open end loan shall be canceled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of the payments is past due for a period of 90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

(2) The open end loan agreement shall contain the name, address, and license number of the consumer finance lender and shall disclose the nature of the security taken, if any, the method of determining the minimum payments which will be required to repay the initial advance and any subsequent advances on the loan, and the agreed

rate of charge.

(3) Except in the case of an account which the licensee deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account or with respect to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle for payments, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charge determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System under the Federal Consumer Credit Protection Act, the balance on which the finance charge was computed, the closing date of the billing cycle, the outstanding balance on that date, and the minimum monthly payment required in the absence of any additional advance. If there has been any change in the nature of the security for the loan since the next preceding advance, the statement shall contain or be accompanied by a statement of the nature of the security for the loan after such change.

(h) Subdivision (e) of Section 24473 shall not apply to an open end loan with respect to which there is no balance outstanding if the open end loan agreement continues in effect.

(i) Section 24480 shall not apply to open end loans.

(j) Nothing in this section may be construed to limit the authority of the commissioner to disapprove advertising with respect to open end loans pursuant to Section 24414.

(k) This section shall not apply to loans other than open end loans.

SEC. 11. Section 24455 of the Financial Code is amended to read:

24455. Except as provided in Section 24451.3 and in Article 3 (commencing with Section 24480) no charges on loans made pursuant to this division shall be paid, deducted, or received in advance, or compounded. The licensee shall deliver to or at the direction of the borrower at the time of making the loan an amount equal to the face value of the loan and the note evidencing the loan.

SEC. 12. Section 24464 of the Financial Code is amended to read:

24464. No licensee shall knowingly induce any borrower to split up or divide any loan with any other licensee. No licensee shall induce or permit any borrower to be or to become obligated directly or indirectly, or both, under more than one contract of loan at the same time with the same licensee for the purpose or with the result of obtaining a higher rate of charge than would otherwise be permitted by this article except as otherwise required by the federal Equal Credit Opportunity Act (15 U.S.C. Sec. 1691 et seq; P.L. 93-495) and Regulation B promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 202 et seq.).

For the purposes of this section, "borrower" includes any husband and wife whether jointly or severally obligated.

SEC. 13. Section 24481 of the Financial Code is amended to read:

24481. With respect to precomputed loans, licensees shall be subject only to, comply only with and derive authority only from Sections 24480 and 24482, notwithstanding any other provision of law which is not within this division.

SEC. 14. Section 24600 of the Financial Code is amended to read:

24600. (a) Licenses issued under this division remain in effect until they are surrendered, revoked, or suspended.

(b) Surrender of a license becomes effective 30 days after receipt by the commissioner of an application to surrender the license or within a shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the surrender is instituted within 30 days after the application is filed. If such a proceeding is pending or instituted, surrender of a license becomes effective at such time and upon such conditions as the commissioner determines.

SEC. 15. Section 24601 of the Financial Code is amended to read:

24601. For the purpose of discovering violations of this division or securing information required by him in the administration and enforcement of this division, the commissioner may at any time investigate the loans and business and examine the books, accounts, records, and files used in the business, of every person engaged in the business of a consumer finance lender or broker, whether the person acts or claims to act as principal or agent, or under or without the authority of this division. For the purpose of examination the commissioner and his representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons.

SEC. 16. Section 24608 of the Financial Code is amended to read:

24608. (a) The cost of each examination of a licensee or a person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost of an examination, the commissioner may use the estimated average hourly cost for all persons performing examinations of licensees or other persons subject to this division for the fiscal year.

(b) For the purpose of this section only, no person other than a licensee shall be deemed to be a person subject to this division until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or by a judicial hearing in any court of competent jurisdiction.

CHAPTER 1010

An act to amend Sections 1339, 1339.5, 1339.7, 1339.17, 1339.19, 1339.21, and 1339.25 of, to repeal and add Sections 1339.3, 1339.8, 1339.9, 1339.11, 1339.13, and 1339.15 of, and to repeal Sections 1339.23 and 1339.27 of, the Health and Safety Code, relating to health facilities.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 1339 of the Health and Safety Code is amended to read:

1339. The Legislature hereby finds and declares that:

(a) In many areas, small, rural general acute care hospitals are experiencing financial difficulties brought upon partially because of governmental regulations and underutilization of acute care beds.

(b) Closure of such facilities, in most cases, would represent a direct threat to the health and well-being of both the resident and tourist populations served by these facilities.

(c) Availability and accessibility to primary and preventive health care services could be greatly improved through coordination with existing resources in the area.

(d) Because of the special attributes of the small, rural general acute care hospital, such as longevity, focus of community support, critical geographic location, and availability of services, such facilities could serve as the major focal point for the promotion of health and the delivery of health care services within the rural community.

(e) There is a lack of systematic study and evaluation of the economics of efficiently operating small rural hospitals and the ways in which these hospitals might more effectively meet the health needs of their communities.

SEC. 2. Section 1339.3 of the Health and Safety Code is repealed.

SEC. 3. Section 1339.3 is added to the Health and Safety Code, to read:

1339.3. It is, therefore, the intent of the Legislature to designate certain general acute care hospitals as primary health service hospitals, which will facilitate the diversification of the small rural hospital. The designation shall apply only to those general acute care hospitals that meet the criteria set forth in this article and which are designated by the state department.

SEC. 4. Section 1339.5 of the Health and Safety Code is amended to read:

1339.5. As used in this article, unless otherwise indicated:

(a) "Health systems agency" means a health systems agency established pursuant to Public Law 93-641.

(b) "Primary care mid-level health practitioner" means a

physician assistant certified pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code and also means a registered nurse who meets the standards for a nurse practitioner adopted pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code, and also means a nurse midwife certified pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(c) "Swing bed" means beds licensed for general acute care pursuant to Section 1250.1 which may, subject to the provisions of this article, be used as skilled nursing beds, as classified in Section 1250.1. Swing beds shall retain the general acute care bed classification, for the purposes of Part 1.5 (commencing with Section 4371) of Division 1.

SEC. 5. Section 1339.7 of the Health and Safety Code is amended to read:

1339.7. The state department shall administer the program authorized in this article. In administering the program, the state department shall do all of the following:

(a) Verify hospital eligibility, pursuant to Section 1339.9, and designate those hospitals as primary health service hospitals.

(b) Establish criteria for the health service plans pursuant to Section 1339.15.

(c) Review a general acute care hospital's health service plan based upon recommendations of the local health systems agency, input from local public meetings, recommendations of the medical advisory panel, as appropriate, and the adequacy of the plan in meeting the criteria established pursuant to this section. The state department shall approve, deny, or defer the plan in whole or in part and shall notify the hospital of its findings, in writing, within 120 days after receipt of the plan. The plan shall be deemed approved if the hospital has not received notification from the state department within the 120-day period.

(d) Negotiate and grant exceptions to the licensure requirements for general acute care hospitals that are necessary to serve the purposes of this article when the granting of such exceptions do not jeopardize the health and welfare of the patients. Exceptions that are granted shall be consistent with the primary health service hospital's plan and any amendments thereto.

(e) Convene an advisory panel to review the medical-surgical and obstetrical services proposed as part of the primary hospital service plan and make recommendations to the state department on the medical appropriateness of those services according to the primary health service hospital's proposed plan. The panel shall include, but not be limited to, a rural hospital administrator, a rural family practice physician and surgeon, a rural hospital nurse administrator, an internist, a primary care mid-level practitioner, and a physician and surgeon from a hospital which serves as a referral center for rural hospitals.

(f) Issue evidence of primary health service hospital designation and evidence of the number of acute care beds approved as swing beds pursuant to paragraph (4) of subdivision (b) of Section 1339.15.

(g) Monitor the performance of the primary health service hospital to assure compliance with such hospital's plan and licensure requirements from which such hospitals are not exempt.

(h) Immediately upon the denial of a primary health service hospital's health service plan, or a portion thereof, notify the hospital in writing. Within 20 days after the state department mails the notice, the hospital may present a written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, the petition shall be set for hearing. 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 state department has all the powers granted therein.

(i) Compile and make available to health systems agencies and primary health service hospitals, information regarding state and federal funding programs for which the primary health service hospital may be eligible, the procedures necessary to apply for funding, and a description of how such requests may be incorporated into a primary health service hospital's plan and opportunities for diversification of services, the requirements and feasibility, and the procedures for development of such services.

(j) On behalf of primary health service hospitals, seek appropriate federal waivers consistent with the intent of this act.

(k) Contract with one or more health systems agencies to perform the functions specified in subdivision (c) of Section 1339.11.

(*l*) Develop or assist hospitals submitting a primary health service plan pursuant to Section 1339.15 to develop the following:

(1) Alternative methods of filing claims which reduce administrative costs.

(2) Alternative methods of Medi-Cal payment to hospitals.

(3) Other methods of filing claims which reduce administrative costs.

(4) Simplified and abbreviated procedures required by the department of Medi-Cal costs reports.

(5) An abbreviated medical and social review process and other control processes.

(m) Provide technical assistance to primary health service hospitals in development of their health service plan.

SEC. 6. Section 1339.8 of the Health and Safety Code is repealed.

SEC. 7. Section 1339.8 is added to the Health and Safety Code, to read:

1339.8. The Office of Statewide Health Planning and Development shall review and approve the number of swing beds that may be designated pursuant to paragraph (4) of subdivision (b) of Section 1339.15, based upon community need and projected utilization and issue a certificate of need pursuant to the review and

approval. Except as provided herein, a primary health service hospital shall be subject to the requirements pertaining to approval of projects, as defined in Section 437.10, which are set forth in Part 1.5 (commencing with Section 437) of Division 1.

SEC. 8. Section 1339.9 of the Health and Safety Code is repealed.

SEC. 9. Section 1339.9 is added to the Health and Safety Code, to read:

1339.9. In order to be eligible for designation as a primary health service hospital, a hospital shall be licensed pursuant to subdivision (a) of Section 1250 and meet one of the following criteria:

(a) Be located outside of a standard metropolitan statistical area, be located at least 15 miles from another licensed acute care hospital, and have 60 or fewer acute care beds.

(b) Be located at least 20 miles from any other licensed acute care hospital and have 60 or fewer acute care beds.

(c) Be the only licensed acute care hospital in the county and have fewer than 100 acute care beds.

SEC. 10. Section 1339.11 of the Health and Safety Code is repealed.

SEC. 11. Section 1339.11 is added to the Health and Safety Code, to read:

1339.11. Health systems agencies shall do all of the following:

(a) Verify information in the health service plan received from hospitals in their respective health service area.

(b) Within 45 days make a recommendation, including findings, to the state department regarding the need for, and ability of the hospital to implement its health services plan for hospitals in their respective health service area.

(c) Upon contracting with the state department, provide technical assistance to primary health service hospitals in the preparation of health services pursuant to Section 1339.15.

(d) In the event a health systems agency is unable to perform the functions, the state department shall perform those functions.

SEC. 12. Section 1339.13 of the Health and Safety Code is repealed.

SEC. 13. Section 1339.13 is added to the Health and Safety Code, to read:

1339.13. Any primary health service hospital, or any group thereof, may submit a health service plan to the state department when a public meeting, which satisfies the following criteria, has been conducted in the community by the hospital with respect to such hospital's health service plan for the community, or when more than one hospital is involved, in the communities for which the hospitals propose to provide primary health service hospital services:

(a) The plan is made available for public review at least two weeks prior to the public meeting.

(b) Notices announcing the public meeting are posted in publicly visible places in the community and at the hospital at least 10 days prior to the public meeting.

(c) A public notice is published in a newspaper of general circulation not less than 10 or more than 20 days prior to the public meeting.

SEC. 14. Section 1339.15 of the Health and Safety Code is repealed.

SEC. 15. Section 1339.15 is added to the Health and Safety Code, to read:

1339.15. A primary health service hospital may request waivers pursuant to subdivision (d) of Section 1339.7, and Section 1339.25, authorization for swing beds pursuant to Section 1339.8 and seek the benefits pursuant to subdivision (*l*) of Section 1339.7 by submitting a health service plan. The health service plan shall be submitted to the state department and the health systems agency and shall contain the following as appropriate and dependent on the needs of the community:

(a) A description of the hospital's current capabilities with emphasis on the following:

(1) Primary and preventive care services including life saving services.

(2) Community access to health services.

(3) Cost effectiveness.

(b) Additionally, and as appropriate, the plan shall include:

(1) A description of any services to be deleted from those authorized by license at the time the plan is submitted with a description of the impact the deletion of this service will have on the community.

(2) A description of any services to be added to those authorized by license at the time the plan is submitted, including evidence of market feasibility, methods and schedule for plan implementation, evidence of community and medical staff support of the plan, and evidence of coordination with other health providers and services in the community.

(3) Requests for waivers or exemptions which do not jeopardize the health, safety, and well-being of patients affected, and which are needed for increased operational efficiency or to implement the health service plan.

(4) Identification of the number of acute care beds in the hospital, if any, requested for use as swing beds, depending upon community need and projected utilization, including a description of the way in which medical care will be provided to those patients and a description of how the facility will provide for the transfer of long-term care patients when the need for acute care beds develops.

SEC. 16. Section 1339.17 of the Health and Safety Code is amended to read:

1339.17. A primary health service hospital may amend its health service plan. Such amendments shall be subject to the provisions of subdivision (c) of Section 1337.7 and Section 1339.13. Amendments shall not be made to such plan solely for the purpose of circumventing sanctions administered for noncompliance with such

hospital's health service plan.

SEC. 18. Section 1339.19 of the Health and Safety Code is amended to read:

1339.19. The primary health service hospital shall operate under the following requirements:

(a) The primary health service hospital shall be subject to the regulations contained in Division 5 (commencing with Section 70001) of Title 22 of the California Administrative Code that are not waived as a result of the health service plan or subsequent amendments to such plan.

(b) Services offered by the primary health service hospital shall be limited in scope according to its license or authorized by an approved health service plan, and any subsequent amendments thereto.

(c) All or a portion of the health service plan shall be implemented, based upon an agreed timetable between the state department and the hospital, and to the extent that state and federal requirements are waived.

(d) The hospital shall remain in compliance with its plan in accordance with subdivision (c).

(e) When an acute care hospital has swing beds occupied for long-term care and is notified by a skilled nursing or intermediate care facility that it has beds available within a 25-mile radius of the hospital, the acute care hospital shall transfer appropriate patients to occupy the available beds. However, a skilled nursing or intermediate care facility shall accept and retain only patients for whom it can provide adequate care. Reimbursement for Medi-Cal patients occupying swing beds shall be in accordance with Section 1263.7. In addition, the director shall annually report to the Legislature beginning December 31, 1983, on the effectiveness of the swing bed designation in primary care service hospitals and on the impact on reimbursement levels and procedures of Medi-Cal and Medicare of the designations.

SEC. 19. Section 1339.21 of the Health and Safety Code is amended to read:

1339.21. (a) In accordance with the procedures prescribed in subdivision (h) of Section 1339.7, the state department shall terminate a hospital's health service plan or its designation as a primary health service hospital, or both, when it finds that the hospital is not in compliance with Section 1339.19 or the welfare or safety of the patients served by the facility is adversely affected, or both.

(b) A primary health service hospital may terminate its designation or health service plan, or both, after giving a 30-day notice to the state department.

(c) Upon termination from the project, as prescribed by this section, the hospital shall revert to the same status it held immediately preceding its designation or approval of its plan, or both.

SEC. 20. Section 1339.23 of the Health and Safety Code is repealed.

SEC. 21. Section 1339.25 of the Health and Safety Code is amended to read:

1339.25. Implementation of this article shall be consistent with federal rules and regulations in effect on January 1, 1979, and as adopted on or after such date. In keeping with the intent in enacting this article and to the extent permitted by federal law, each department within the Health and Welfare Agency may waive requirements, provide exemptions to the enforcement of statutes upon which the requirements were based, allow flexible enforcement of regulations and policies, and make resources available which are necessary for the administration of this article, including technical assistance to primary health service hospitals in developing their health service plans.

SEC. 22. Section 1339.27 of the Health and Safety Code is repealed.

CHAPTER 1011

An act to amend Section 11105 of, and to add Section 14007.6 to, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 11105 of the Welfare and Institutions Code is amended to read:

11105. (a) No person shall be granted aid under this part unless he is a resident of this state.

(b) Where a recipient of aid under Chapter 2 (commencing with Section 11200) receives an aid payment at an address outside of this state for two consecutive months, the recipient's eligibility shall be terminated where the county has made inquiry of the recipient pursuant to Section 11100, and where the recipient has not responded to this inquiry by clearly showing that he or she has (1) not established residence elsewhere; and (2) been prevented by illness or other good cause from returning to this state.

(c) If a recipient whose aid is terminated pursuant to subdivision (b) reapplies for aid, payments shall be restored provided all other eligibility criteria are met if this individual can prove both of the following:

(1) His or her permanent residence is in this state.

(2) That residence has not been established in any other state which can be considered to be of a permanent nature.

(d) Nothing in this section shall be construed as limiting Aid to

Families with Dependent Children-Foster Care payments to children placed out of state by California children's placement agencies.

SEC. 2. Section 14007.6 is added to the Welfare and Institutions Code, to read:

14007.6. (a) A recipient who maintains a residence outside of this state for a period of at least two months shall not be eligible for services under this chapter where the county has made inquiry of the recipient pursuant to Section 11100, and where the recipient has not responded to this inquiry by clearly showing that he or she has (1) not established residence elsewhere; and (2) been prevented by illness or other good cause from returning to this state.

(b) If a recipient whose services are terminated pursuant to subdivision (a) reapplies for services, services shall be restored provided all other eligibility criteria are met if this individual can prove both of the following:

(1) His or her permanent residence is in this state.

(2) That residence has not been established in any other state which can be considered to be of a permanent nature.

SEC. 3. The State Department of Social Services and the State Department of Health Services shall, if necessary, seek waivers from any provision of federal law inconsistent with the provisions of this act.

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 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 1012

An act to repeal, add, and repeal Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code is repealed.

SEC. 2. Article 3 (commencing with Section 1480) is added to Chapter 2.5 of Division 2 of the Health and Safety Code, to read:

Article 3. Mobile Intensive Care Paramedics

1480. As used in this article:

(a) "Mobile intensive care paramedics" means a paramedic (EMT-P) who meets the qualifications specified in Section 1797.172.

(b) "Mobile intensive care units" means any emergency vehicles staffed by mobile intensive care paramedics or mobile intensive care nurses and equipped to provide remote intensive care or cardiac care to the sick or injured at the scene of medical emergencies or during transport to general acute care hospitals.

1481.3. Any county conducting a program pursuant to Division 2.5 (commencing with Section 1797) may provide courses of instruction and training leading to certification as a mobile intensive care paramedic. Where such instruction and training are provided to public employees other than employees of the county or employees of a fire protection district within the county, a fee may be charged sufficient to defray the cost of such instruction and training. Where such instruction and training are provided to any other persons such fee shall be charged. However, such fee may be reduced to the extent of any federal funds obtained for the purpose of providing such instruction and training.

1481.5. The Emergency Medical Service Authority may, by regulation, prescribe standardized insignias or emblems for patches which may be affixed to the clothing of a mobile intensive care paramedic or a mobile intensive care nurse.

1482.5. (a) Authority for patient health care management in a medical emergency shall be vested in that licensed or certified health care professional, which may include any paramedic or other prehospital emergency personnel, at the scene of the emergency who is most medically qualified specific to the provision of rendering emergency medical care. If such licensed or certified health care professional is not available, the authority shall be vested in the most appropriate medically qualified representative of public safety agencies who may have responded to the scene of the emergency.

(b) If any county desires to establish a unified command structure for patient management at the scene of a medical emergency within such county, a committee may be established in such county comprised of representatives of the agency responsible for county emergency medical services, the county sheriff's department, the California Highway Patrol, public prehospital-care provider agencies serving the county, and public fire, police, and other affected emergency-service agencies within the county. The membership and duties of the committee shall be established by an agreement for the joint exercise of powers under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(c) Notwithstanding subdivision (a), authority for the management of the scene of a medical emergency shall be vested in the appropriate public safety agency having primary investigative authority. The scene of a medical emergency shall be managed in a

manner designed to minimize the risk of death or health impairment to the patient and to other persons who may be exposed to the risks as a result of the emergency condition, and priority shall be placed upon the interests of those persons exposed to the more serious and immediate risks to life and health. Public safety officials shall consult emergency medical services personnel or other authoritative health care professionals at the scene in the determination of relevant risks.

1484. This article 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.

1484.1. During the clinical internship portion of the training program specified in Section 1797.172, mobile intensive care paramedic interns shall be supervised continuously by a physician or registered nurse.

During the field internship portion of the training program specified in Section 1797.172, mobile intensive care paramedic trainees may perform all the services enumerated in Section 1797.172, provided that they are supervised and accompanied by a certified mobile intensive care paramedic, a physician, or a mobile intensive care nurse.

1484.2. The county health officer or county designated physician shall establish, pursuant to Sections 1797.172 and 1797.210, criteria necessary to maintain certification as a mobile intensive care paramedic or a mobile intensive care nurse including, but not limited to:

(a) A formal program of continuing education.

(b) Continuous service as a mobile intensive care paramedic or a certified mobile intensive care nurse.

(c) Retesting at two-year intervals, which shall include a performance examination and may include written examinations and oral examinations.

1484.3. No agency, public or private, shall advertise or disseminate information to the public that the agency provides paramedic rescue or paramedic ambulance service unless that agency does, in fact, provide mobile intensive care units on a continuous 24 hours-per-day basis. If advertising or information regarding the agency's paramedic rescue or paramedic ambulance service appears on any vehicle it may only appear on those mobile intensive care unit vehicles utilized solely to provide service on a continuous 24 hours-per-day basis.

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:

On January 1, 1981, Division 2.5 (commencing with Section 1797) was added to the Health and Safety Code by Chapter 1260 of the Statutes of 1980, creating the Emergency Medical Services Authority in California under the Health and Welfare Agency. At the same

time, Sections 1760, 1760.6, 1761, 1765, 1767, and 1769 of the Health and Safety Code were repealed. Certain provisions of Article 3 (commencing with Section 1760) of Chapter 9 of Division 2 of the Health and Safety Code, known as the Wedworth-Townsend Paramedic Act, were included in Division 2.5 and are now permanent law. These provisions include Section 1481.1 and Section 1482, relating to minimum training standards and scope of practice for paramedics. Other important provisions of Article 3, however, are not included in Division 2.5 and will remain in effect only until January 1, 1982, unless further legislative action is taken. One such provision is Section 1482.5, relating to a line of authority for patient health care management at the scene of medical emergencies.

In order to prevent any confusion for local jurisdictions and emergency medical service programs resulting from a lack of continuity in the law, it is necessary that this act take effect immediately.

CHAPTER 1013

An act to amend Sections 11770 and 11780 of the Health and Safety Code, relating to alcoholism.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 11770 of the Health and Safety Code is amended to read:

11770. The department shall:

(a) Provide funds to counties for the planning and implementation of local programs to alleviate problems related to inappropriate alcohol use.

(b) Review and approve or disapprove county alcohol plans submitted for state and federal funds allocated by the department.

(c) Provide for technical assistance and training to local programs to assist in the planning and implementation of quality services.

(d) Assure program quality in compliance with appropriate standards pursuant to Chapter 7 (commencing with Section 11830).

(e) Sponsor and encourage research into the (1) biological aspects of alcoholism, (2) social factors contributing to problems relating to inappropriate alcohol use, and (3) effectiveness of various types of alcohol programs, and serve as a resource to provide information relating to alcohol problems pursuant to Chapter 3 (commencing with Section 11785).

(f) Cooperate with other governmental agencies and the private sector in establishing, conducting, and coordinating alcohol programs and projects pursuant to Chapter 2 (commencing with

Section 11775).

(g) Cooperate with other state agencies to encourage appropriate health facilities to recognize, without discrimination, persons with alcohol problems who also require medical care and to provide them with adequate and appropriate services.

(h) Encourage training for other state agencies, in cooperation with the State Personnel Board, to assist such agencies to recognize employee problems relating to inappropriate alcohol use which affect job performance and encourage such employees to seek appropriate services.

(i) Develop and implement a statewide plan to alleviate problems related to inappropriate alcohol use and to overcome the barriers to their solution as described in Section 11760.1, and review and revise such plan annually. In preparing the plan, the department shall take into consideration the local plans submitted by counties pursuant to this part. In addition, the recommendations of the State Advisory Board on Alcohol-Related Problems shall be taken into consideration in the development and revision of the statewide plan. In order to avoid duplication of efforts in developing statewide plans, the department shall consult with the Office of Statewide Health Planning and Development to adopt a uniform format and policies for the development of the statewide alcohol plan to facilitate its incorporation in the state health plan. The department shall submit an annual report to the Legislature no later than January 31st of each year which incorporates the state plan. The report shall also include, but not be limited to, the information specifically required pursuant to provisions of this part.

(j) Assist and cooperate with the Office of Statewide Health Planning and Development in the drafting and adoption of the state health plan to assure inclusion of appropriate provisions relating to alcohol problems.

(k) Encourage counties to coordinate alcohol services, where appropriate, with county health and social service programs, or with regional health programs pursuant to Article 2 (commencing with Section 11821) of Chapter 5.

(*l*) In the same manner and subject to the same conditions as other state agencies, develop and submit annually to the Department of Finance a program budget for the state-funded alcohol program which shall include expenditures proposed to be made under this part, and may include expenditures proposed to be made by any other state agency relating to alcohol problems pursuant to a contract with the department.

(m) Encourage the utilization, support, assistance, and dedication of interested persons in the community in order to increase the number of persons with alcohol problems who voluntarily seek appropriate services to alleviate such problems.

(n) Evaluate or require the evaluation, including the collection of appropriate and necessary information, of alcohol programs pursuant to Chapter 6 (commencing with Section 11825).

(o) Perform all other duties specifically required pursuant to this part.

SEC. 2. Section 11780 of the Health and Safety Code is amended to read:

11780. (a) There is a State Advisory Board on Alcohol-Related Problems to the department which shall consist of 15 members, of which five members shall be appointed by the Governor, five members by the Senate Rules Committee, and five members by the Speaker of the Assembly.

(b) The members shall be appointed for terms that commence on January 1, 1976. Of the members first appointed by the Governor, the Senate Rules Committee, and the Speaker, two out of each five appointments, as selected by the appointing power, shall hold office for three years, two out of each five, as selected by the appointing power, shall hold office for two years, and one out of each five, as selected by the appointing power, shall hold office for one year. After these initial terms, each member shall be appointed for a term of three years. A member of the board may be replaced by the appointing power, upon recommendation of the board, for failure to attend board meetings.

(c) Members shall have a professional or personal interest in, and commitment to, alleviating alcohol problems. It is the intent of the Legislature that the appointing powers make appointments that include representatives from various economic, social, and occupational groups, and allow for geographic distribution throughout the state. No member of the board may be an employee or member of the board of directors of an organization which is a direct recipient of any state funds pursuant to a contract with a department, which shall include compensation for contracted services or membership on an advisory body or board of directors of such recipient organization. No spouse of any person described in the preceding sentence may be a member of the board.

(d) The board shall meet at least once every three months and may meet as often as required, as a full board or in committees, to implement the provisions of this section. All meetings of the board, and any committees thereof, shall be open to the public and adequate notice shall be provided in advance to interested persons.

(e) The members shall select the chair of the board annually and adopt bylaws as appropriate to carrying out its duties.

(f) Members of the board shall serve without compensation, but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their official duties.

(g) The board shall advise the director on the major policy issues relating to the implementation by the department of the provisions of this part and on any other related matters the director refers to it, shall encourage public understanding of the nature of alcohol problems, and encourage support throughout the state for development and implementation of effective alcohol programs. Upon request of the chair of the board, the director shall respond in

writing to the board regarding each of its recommendations.

(h) The board shall participate in the regulations process pursuant to the provisions of Chapter 8 (commencing with Section 11835) of this part.

(i) The department shall provide for appropriate training to the board members relating to their charge so as to assure their understanding of the state-funded alcohol program. It is the intent of the Legislature that each member of the board learn about the elements of the alcohol program and the nature of alcohol problems in his or her county of residence in order to assist him or her in understanding the major policies to be examined by the board.

(j) The board shall submit an annual report to the department and Legislature in January of each year which describes its accomplishments and includes its recommendations regarding the department's role in alleviating alcohol problems.

(k) The board shall review the statewide plan developed pursuant to subdivision (i) of Section 11770, and shall submit its comments and recommendations regarding the plan to the Director of Alcohol and Drug Programs.

CHAPTER 1014

An act to amend Section 14017.5, of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. 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. If the provider complies in good faith, he or she shall not be held responsible by having payments withheld by the state.

CHAPTER 1015

An act to amend Section 5100 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 5100 of the Labor Code is amended to read:

5100. At the time of making its award, or at any time thereafter, the appeals board, on its own motion either upon notice, or upon application of either party with due notice to the other, may commute the compensation payable under this division to a lump sum and order it to be paid forthwith or at some future time if any of the following conditions appear:

(a) That such commutation is necessary for the protection of the person entitled thereto, or for the best interest of the applicant. In determining what is in the best interest of the applicant, the appeals board shall consider the general financial condition of the applicant, including but not limited to, the applicant's ability to live without periodic indemnity payments and to discharge debts incurred prior to the date of injury.

(b) That commutation will avoid inequity and will not cause undue expense or hardship to the applicant.

(c) That the employer has sold or otherwise disposed of the greater part of his assets or is about to do so.

(d) That the employer is not a resident of this state.

CHAPTER 1016

An act to add and repeal Chapter 5.5 (commencing with Section 4901) of Division 2 of the Public Utilities Code, relating to radiotelephone utilities, and making an appropriation therefor.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Chapter 5.5 (commencing with Section 4901) is added to Division 2 of the Public Utilities Code, to read:

CHAPTER 5.5. RADIOTELEPHONE UTILITY RATE FUND AND FEES

4901. This chapter is enacted for the purpose of defining a class of telephone corporation to be known as radiotelephone utilities and to create a special fund to administer and enforce the provisions of this code conferring upon the commission jurisdiction to certificate and regulate the rates and conditions of service of telephone corporations which provide domestic public land mobile radio service to the public or any portion thereof for compensation within this state.

4902. (a) Except as provided in subdivision (b), as used in this chapter, "radiotelephone utility" includes every telephone corporation as defined in Section 234 which provides domestic public land mobile radio service, whether one-way or two-way, to or for the public or any portion thereof for compensation within this state pursuant to the provisions of Part 22 of the Rules and Regulations of the Federal Communications Commission (47 C.F.R. 22.0 et seq.) or which is otherwise found by the commission to be rendering such service in a manner requiring certification under this code.

(b) "Radiotelephone utility" does not include the following:

(1) Any telephone corporation also engaged in the business of affording public landline message telephone service.

(2) Any subsidiary or affiliate of a telephone corporation, specified in paragraph (1), which subsidiary or affiliate is eligible to make application for frequencies allocated under Part 22 of the Rules and Regulations of the Federal Communications Commission (47 C.F.R. 22.0 et seq.) to common carriers also engaged directly or indirectly in the business of affording public landline message telephone service, as those terms are used in those rules and regulations.

4903. As used in this chapter, "DPLMRS revenue" includes all revenues from domestic public land mobile radio service furnished from transmission facilities located in this state, as reported by each radiotelephone utility operating in this state in its "Annual Report of Licensee and Domestic Public Land Mobile Radio Service", or "Form L," as submitted to the Federal Communications Commission, or such other form as the commission may designate pursuant to Section 4904.

4904. Every radiotelephone utility operating in this state shall file with the commission, on or before April 30 of each year, a copy of Form L, as filed with the Federal Communications Commission and a statement of the DPLMRS revenues received during the previous calendar year from transmitters licensed by the Federal Communications Commission located in this state. If, for any reason,

a radiotelephone utility does not file a Form L with the Federal Communications Commission, it shall nonetheless comply with the reporting requirements of this chapter. The commission may designate another form as the form required to be filed with the commission for purposes of this chapter.

4905. As of January 1, 1983, and following its receipt of the annual reports pursuant to Section 4904, the commission shall levy and collect a total of sixty thousand dollars ($60,000) in fees from the radiotelephone utilities subject to its jurisdiction, with each such utility directed to pay that part of that total which equals the ratio of its total DPLMRS revenues during the prior calendar year, as reported to the Federal Communications Commission, and the total of all such revenues reported by all radiotelephone utilities subject to the jurisdiction of the commission.

4906. All fees collected by the commission pursuant to Sections 4905 and 4907 shall be deposited in the Radiotelephone Utility Rate Fund, which is hereby created in the State Treasury. The money in the fund is continuously appropriated to the commission in augmentation of the current appropriation for the support of the commission for the purpose of administering and enforcing the provisions of this code applicable to radiotelephone utilities in this state, including the payment of the salary and related expenses for one staff position, the holder of which shall devote full time to administering those provisions of this code, and the rules and orders of the commission, applicable to the certification and regulation of rates and conditions of service of those radiotelephone utilities.

4907. Every person or corporation intending to furnish radiotelephone service in this state under circumstances requiring new or additional certification by the commission shall make application pursuant to Section 1001 not later than 30 days after the grant by the Federal Communications Commission of the requisite construction permit or license. Notwithstanding Section 1904, an application to the commission pursuant to Section 1001 shall be accompanied by a filing fee of four hundred dollars ($400).

4908. Fees paid pursuant to Section 4905, exclusive of any penalties for delinquency, shall be allowed by the commission as an ordinary operating expense for purposes of establishing rates or charges. The commission shall authorize each person or corporation subject to Section 4904 to annually adjust its rates or charges for intrastate services so as to collect from its customers and subscribers an amount equal to the amount of the fee required by Section 4905.

4909. If any person or corporation subject to this chapter is in default of the preparation and submission of any report or the payment of any fee required by this chapter, for a period of 30 days or more, the commission may estimate from all available information the appropriate fee pursuant to Section 4905, and may add to the amount of that estimated fee a penalty not to exceed 25 percent of the amount resulting from the failure, refusal, or neglect of the person or corporation to prepare and submit the report or to pay the

fee.

If the default extends to 60 days following receipt of notification of the default, the commission may suspend or revoke the certificate of public convenience and necessity, permit, or other operating authority of the person or corporation.

4910. This chapter 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.

SEC. 2. Notwithstanding Item 8660-001-001 of the Budget Act of 1982, the fees collected pursuant to Section 4905 shall not be included within the amount of those additional fees which are to offset the unencumbered balance of the funds appropriated by that item and subject to transfer to the General Fund.

CHAPTER 1017

An act relating to public postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. The Legislature hereby finds and declares that the recruitment and retention of engineering, business, and accounting faculty at the University of California and the California State University are of significant importance in maintaining the prominence of those university systems. The Legislature also finds the recruitment and retention of marine engineering faculty at the California Maritime Academy to be a matter of legislative concern.

SEC. 2. The California Postsecondary Education Commission shall, by March 31, 1983, report to the Joint Legislative Budget Committee on the impact of actions taken for 1982–83 by the University of California, the California State University, and the California Maritime Academy, as well as studies conducted by related professional associations, with regard to changes in engineering faculty salaries, new employee salary differentials, and uses of investment in people funds as faculty incentives in response to legislative intent.

In addition, the commission shall also review relevant state, regional, and national studies and make related, specific recommendations for action by the Legislature, industry, and educational institutions.

The commission shall also review actions or studies undertaken by the University of California and the California State University, as well as studies conducted by related professional associations, to address problems of recruitment and retention of faculty in business

administration and accounting. The results of this review, and relevant recommendations, shall be reported to the Legislature by June 30, 1983.

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

Due to the critical shortage of teaching personnel in the fields of engineering, business administration, and accounting, it is necessary to determine as soon as possible the extent of the progress by institutions of higher learning regarding recruitment and retention of these individuals so that California's highest standards of academic excellence can be maintained.

CHAPTER 1018

An act relating to county superintendents of schools.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Notwithstanding Section 2504 of the Education Code, the County Superintendent of Schools of Mono County may, from whatever funds available, construct any administration facility or center for the purpose of providing housing for all the functions and services of the county office of education.

SEC. 2. Due to the unique circumstances regarding the lack of office space for the Mono County Board of Education, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

CHAPTER 1019

An act to amend Section 23357 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 23357 of the Business and Professions Code is amended to read:

23357. Licensed beer manufacturers may also sell beer to any

person holding a license authorizing the sale of beer and may sell beer to consumers for consumption on the manufacturer's licensed premises or on premises owned by the manufacturer which are contiguous to the licensed premises and which are operated by and for the manufacturer. Licensed beer manufacturers may also sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide public eating place on premises owned by the manufacturer which are contiguous to the licensed premises and which are operated by and for the manufacturer.

CHAPTER 1020

An act to amend Sections 17930, 17931, 17932, 50086, 50662, 50680, 50682, 50684, 50685, 50685.5, 50686, 50686.5, 50687, 50687.5, 50688, 50689, and 50777 of, and to repeal Section 50461 of, the Health and Safety Code, relating to housing.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982]

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

SECTION 1. Section 17930 of the Health and Safety Code is amended to read:

17930. Except as provided in Section 18945, the director or the director's designee shall hear appeals brought by any person as to the application of any rule or regulation promulgated pursuant to this part, except a building standard published in the State Building Standards Code, to such person under any facts and circumstances presented to the director or the director's designee by the person alleging that the application or enforcement of any other rule or regulation by the department under the facts and circumstances is an erroneous or unlawful application or enforcement of the other rule or regulation by the department. Any appeal shall be submitted through the designated local agency.

Any appeal alleging erroneous or unlawful application by the department of a building standard published in the State Building Standards Code may be brought pursuant to the provisions of Chapter 5 (commencing with Section 18945) of Part 2.5.

The director or the director's designee shall not, however, hear any appeals regarding local regulations which have been adopted pursuant to Sections 17958.5 and 17958.7.

SEC. 2. Section 17931 of the Health and Safety Code is amended to read:

17931. The department may promulgate rules pertaining to hearing appeals. All rules 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. 3. Section 17932 of the Health and Safety Code is amended to read:

17932. A decision of the director or the director's designee made pursuant to Section 17930 is final, except for such action as may be taken by a court as permitted or required by law.

SEC. 3.3. Section 50086 of the Health and Safety Code is amended to read:

50086. "Mortgage loan" means a long-term loan which is secured by a mortgage and is made for permanent financing, including refinancing of existing mortgage obligations as authorized by regulation of the agency, of a housing development or a residential structure in the state, or a buy-down mortgage loan secured by a mortgage as authorized by regulation of the agency, of an owner-occupied unit in this state.

SEC. 3.5. Section 50461 of the Health and Safety Code is repealed.

SEC. 4. Section 50662 of the Health and Safety Code is amended to read:

50662. The department shall adopt regulations establishing terms upon which deferred-payment rehabilitation loans may be made. The amount of a deferred-payment rehabilitation loan shall in no case exceed the costs of meeting rehabilitation standards. The amount, when combined with other financing provided, shall in no case exceed the combined costs of meeting rehabilitation standards and refinancing existing indebtedness. Except for loans made to local agencies pursuant to Section 50664, deferred-payment rehabilitation loans shall bear interest at the rate of 3 percent per annum on the unpaid principal balance. In the discretion of the department, which may differentiate among the types of programs specified in Section 50663, such interest shall either be payable periodically as it accrues during the term of the loan or payment of interest shall be deferred until payment of the principal is due. However, regulations of the department may provide for waiver of interest payments when a local public entity or nonprofit corporation contracting pursuant to Section 50663 remits to the department in advance on behalf of the borrower a sum equal to not less than 15 percent of the original principal balance, which may be in lieu of interest. The regulations of the department may also provide for payment of interest as accrued, in circumstances determined appropriate by the department to serve the purposes of this chapter. In the case of a deferred-payment rehabilitation loan to an elderly person who is the owner of an owner-occupied one-to-four family residence, the note and deed of trust securing the loan shall require payment of the obligation upon transfer of the property. Notwithstanding any other provisions of this chapter, the department may permit the making of a deferred-payment rehabilitation loan to an elderly person of low income who is the owner of an owner-occupied dwelling without requiring that other financing be provided to the extent of the owner's ability to afford the cost of such other financing. In the case

of a deferred-payment rehabilitation loan to a nonelderly person who is the owner of an owner-occupied one-to-four family residence, payment shall be required after five years or upon transfer of the property, whichever first occurs. However, the loan may be renewed for additional five-year terms so long as the property is not transferred and the owner is unable to refinance the obligation when the debt comes due. In the case of a deferred-payment rehabilitation loan to an owner of a residence other than an owner-occupied one-to-four family residence, payment shall be required after five years unless it is determined by the department that a longer term is required to ensure the economic feasibility of obtaining other rehabilitation financing or accepting subsidies. The loan may be renewed for up to five additional five-year terms so long as persons of low income residing in the residence will benefit. The department shall establish standards and determine eligibility for renewal. Regulations of the department shall permit the assumption of a deferred-payment rehabilitation loan authorized by this section when the property which has been rehabilitated by such loan is transferred to a person who meets the eligibility requirements of this section, as determined by the department.

SEC. 5. Section 50680 of the Health and Safety Code is amended to read:

50680. The Legislature finds and declares that recent deemphasis of programs of institutional care for the developmentally disabled, the mentally disordered, and the physically disabled has resulted in participation by many of such persons in programs of rehabilitation, education, and social services within the community. Because of the outpatient status of persons enrolled in such programs, there is a need to provide housing for them which will aid in accomplishment and maintenance of the objectives of such programs, thereby minimizing the numbers of developmentally disabled, mentally disordered, and physically disabled persons in public institutions and improving the quality of life for such persons. In order to assist in providing the variety of living arrangements required for such purpose, it is necessary that the state cooperate with cities, counties, cities and counties, and nonprofit corporations in obtaining federal housing subsidies therefor.

It is the intent of the Legislature in enacting this chapter to vest in the Department of Housing and Community Development authority to obtain federal housing subsidies for housing for persons requiring supportive care, as defined in this part.

SEC. 6. Section 50682 of the Health and Safety Code is amended to read:

50682. As used in this chapter, "developmentally disabled" means affected by a disability specified in subdivision (a) of Section 4512 of the Welfare and Institutions Code rendering the affected person eligible to participate in programs of rehabilitation, education, or social services conducted by or on behalf of a public agency, and also means persons affected by such a disability.

SEC. 7. Section 50684 of the Health and Safety Code is amended to read:

50684. As used in this chapter, "mentally disordered" means affected by a mental disorder rendering the affected person eligible to participate in programs of rehabilitation, education, or social services conducted by or on behalf of a public agency, and also means persons affected by such a mental disorder.

SEC. 8. Section 50685 of the Health and Safety Code is amended to read:

50685. As used in this chapter, "physically disabled" means affected by a physical disability rendering the affected persons eligible to participate in programs of rehabilitation, education, or social services conducted by or on behalf of a public agency, and also means persons affected by such a physical disability.

SEC. 9. Section 50685.5 of the Health and Safety Code is amended to read:

50685.5. As used in this chapter, "persons requiring supportive services" means persons who are eligible to receive housing assistance pursuant to federal law because of financial inability to provide adequate housing for themselves or persons dependent upon them, who are or will be participating in programs of rehabilitation, education, or social services, and who meet any of the following criteria:

(a) The person shall have been determined to be developmentally disabled, but not requiring institutional care, by the State Department of Developmental Services, a regional center established pursuant to Section 4620 of the Welfare and Institutions Code, or by the designated representative thereof.

(b) The person shall have been determined to be mentally disordered, but not requiring institutional care, by a local director of mental health services, by the State Department of Mental Health, or by the designated representatives thereof.

(c) The person shall have been determined to be physically disabled by the State Department of Rehabilitation or by the designated representatives thereof.

SEC. 10. Section 50686 of the Health and Safety Code is amended to read:

50686. Notwithstanding any other provision of law, the department shall have all the powers granted to housing authorities pursuant to Part 2 (commencing with Section 34200) of Division 24 for the purpose of obtaining financial subsidies or assistance from any agency of the United States to provide leased housing pursuant to this chapter for persons requiring supportive services.

SEC. 11. Section 50686.5 of the Health and Safety Code is amended to read:

50686.5. Any local agency or nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code which is providing, or proposes to provide, housing for persons requiring supportive services may apply

to the department for assistance in obtaining federal housing subsidies therefor.

SEC. 12. Section 50687 of the Health and Safety Code is amended to read:

50687. Notwithstanding the provisions of Section 50688, for the purposes of this chapter the department may do any or all of the following:

(a) Enter into contracts with any agency of the United States for the purpose of obtaining funds for dispersal to local agencies, nonprofit corporations, and owners and developers of housing to subsidize housing for persons requiring supportive services.

(b) Enter into contracts with local agencies, nonprofit corporations, and owners and developers of housing for persons requiring supportive services for the purpose of disbursing federal housing subsidies.

SEC. 13. Section 50687.5 of the Health and Safety Code is amended to read:

50687.5. The department, after consultation with the State Department of Developmental Services, the State Department of Rehabilitation, or the State Department of Mental Health, may adopt, amend or repeal regulations for the administration of this chapter. The State Department of Developmental Services or the State Department of Mental Health shall review all applications submitted pursuant to this chapter for assistance in obtaining federal housing subsidies and shall recommend priorities on the basis of need and greatest impact.

The Department of Housing and Community Development shall submit applications for federal housing subsidies for persons requiring supportive services.

SEC. 14. Section 50688 of the Health and Safety Code is amended to read:

50688. The Legislature finds and declares that proper housing serves as a stabilizing factor and is an important facet of any program designed to rehabilitate mentally disordered, developmentally disabled, and physically disabled persons and that the disruption of continued occupancy in a dwelling could cause a setback in treatment in particular cases. It is, therefore, the intent of the Legislature that persons who have received housing under a program established pursuant to Section 50680 shall be allowed to continue to receive rental housing assistance payments subsidies after termination of participation in a public program of rehabilitation, education, or social services if the persons meet the criteria established by federal regulations governing low-rent housing programs.

SEC. 15. Section 50689 of the Health and Safety Code is amended to read:

50689. (a) It is the intent of the Legislature in enacting this section to provide housing assistance for the developmentally or physically disabled, and mentally disordered where such assistance

is for the purpose of providing a transition from an institutional to an independent setting, and where such assistance is administered in the context of ongoing local programs leading to rehabilitation and independence.

(b) The department shall establish a program for the purpose of housing assistance for the physically or developmentally disabled, or mentally disordered. The department shall contract with local agencies or nonprofit corporations incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code which provide supportive services for such individuals, where such services are designed to provide a transition to independent living. The local agencies or nonprofit corporation shall ensure that recipients of housing assistance are income qualified under guidelines for programs of the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended (42 United States Code 1437(f)), and shall not contract for housing which exceeds such guidelines for fair market rents for the Section 8 program. Public and private agencies participating in the program established pursuant to this section shall be those whose program philosophies and activities conform substantially to the principles of community living under Chapter 12 (commencing with Section 4830) of Division 4.5, community residential treatment under Chapter 5 (commencing with Section 5450) of Part 1 of Division 5, and independent living under Chapter 8 (commencing with Section 19800) of Part 2 of Division 10, of the Welfare and Institutions Code.

(c) Any local agency making application for housing assistance payments to the department shall, in its application, explain how such housing assistance payments are part of its ongoing programs to establish independent living for its disabled clientele. The department, in reviewing such applications, may consult with the Department of Developmental Disabilities, the Department of Mental Health, and the Department of Rehabilitation.

(d) In order to receive housing assistance payments for any specific structure pursuant to the provisions of this section, the local agency or nonprofit corporation shall not contract for rental of more than 12 units, or for rental of space for more than 24 persons, in the structure. No individual shall remain in a payment assisted unit for more than 18 months.

SEC. 16. Section 50777 of the Health and Safety Code is amended to read:

50777. (a) The department, directly or through a government agency or mortgage lender, and subject to the provisions of subdivision (a) of Section 50776, may provide financial assistance to nonprofit corporations and stock cooperative corporations to enable these corporations to develop or purchase a mobilehome park, ownership of which will be transferred within a reasonable time to shareholders or owners who are persons and families of low or moderate income. Such financial assistance shall not exceed 49

percent of the purchase price or development costs of the mobilehome park which may be directly attributed to the number or ratio of persons or families with incomes, not in excess of the median income of the county, who will occupy the park. Assistance pursuant to this subdivision shall not render a person or household ineligible for assistance pursuant to subdivision (b).

(b) The department, directly or through a governmental agency or mortgage lender, and subject to the provisions of subdivision (a) of Section 50776, may provide financial assistance to persons or families with incomes not in excess of the median income for the county in which the mobilehome park is located to enable such persons or families to purchase a share in a stock cooperative corporation which owns a mobilehome park. In order to be eligible for assistance pursuant to this section, these persons and families in addition shall be limited to households (1) which do not currently own residential property and have not owned any residential property, other than a mobilehome not affixed to a permanent foundation, for at least three years, (2) which have not previously received any assistance pursuant to this chapter and (3) which, without financial assistance pursuant to this section, would be unable to acquire a dwelling unit, mobilehome, or a share in a stock cooperative. Such assistance shall not exceed 49 percent of the purchase price paid by the household for the share in the stock cooperative. The department may establish a maximum purchase price for such shares. Upon sale or transfer of a share the purchase of which is assisted pursuant to this section, the shareholder shall pay to the department an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided by the department pursuant to this section, as adjusted for improvements made by the corporation or shareholder. The contract for assistance may require that the department not receive in repayment less than the amount of assistance originally provided. The adjustment for improvements shall be made as set forth in Section 50776.

(c) In no event shall the assistance provided pursuant to subdivision (a) or (b) be used to reduce the purchaser's downpayment below 3 percent of the total purchase price.

(d) Upon sale or transfer of a mobilehome park assisted pursuant to this section, the corporation which owns such park shall pay to the department an amount proportionate to the percentage of the initial purchase price or development cost which was paid by the department pursuant to this section, as adjusted for improvements made by the corporation. The contract for assistance may require that the department not receive in repayment less than the amount of assistance originally provided. The adjustment for improvements shall be made as set forth in Section 50776. For this purpose "improvements" shall be defined by regulations of the department, adopted 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, and shall be limited to substantial repairs, renovations or additions which increase the value of the mobilehome park or of the shares of the corporation or which bring such mobilehome parks or mobilehomes within mobilehome parks assisted pursuant to this section into conformance with local or state building or housing standards.

(e) Financial assistance shall be provided pursuant to a contract which requires, among other things, restrictions on occupancy, including owner occupancy maintenance and payment of the full amount of taxes and insurance by the shareholders. Every contract required by this section shall be secured by a deed of trust, security, or other interest determined adequate by the department to protect the interests of the state. The deeds of trust, security, or other instruments shall be recorded in the office of the county recorder of the county in which such mobilehome park is located.

(f) Any contract pursuant to this section may permit the recipient of financial assistance to terminate the contract required by this section upon payment to the department of the amount which would be owed to the department if the mobilehome park or share in a stock cooperative, as the case may be, were sold at fair market value at the time of such repayment. These contracts, subject to regulations adopted by the department, may also permit partial repayments prior to sale or transfer.

(g) Contracts pursuant to this section shall also require that the recipient comply with all terms and conditions of, and make all payments required by, any instrument secured by the park or shares in the stock cooperative.

CHAPTER 1021

An act to amend Sections 18679, 18680, 18711, 18720.5, and 18721 of the Business and Professions Code, relating to boxing and wrestling.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 18679 of the Business and Professions Code is amended to read:

18679. (a) Any application for a license to conduct, or give a professional boxing contest, a sparring or wrestling match, or a wrestling exhibition shall be accompanied by an annual fee, which shall be two hundred dollars ($200).

(b) The fee for club licenses for amateur boxing contests shall be fifty dollars ($50). Every license shall expire at midnight on December 31st of the year in which such license is issued.

SEC. 2. Section 18680 of the Business and Professions Code is

amended to read:

18680. Each person who is an applicant for an annual license or for a renewal thereof shall, before such license or renewal thereof is issued, pay to the commission, a license fee as follows: professional referees, sixty dollars ($60); amateur boxing referees, twenty-five dollars ($25); professional and amateur judges, twenty-five dollars ($25); timekeepers, fifteen dollars ($15); professional boxers, twenty dollars ($20); professional wrestlers, twenty dollars ($20); managers, sixty dollars ($60); trainers, twenty dollars ($20); seconds, twenty dollars ($20); matchmakers, seventy-five dollars ($75); assistant matchmakers, sixty dollars ($60); wrestling booking agents, one hundred dollars ($100). The charge for a duplicate of a license shall be five dollars ($5).

Every license shall expire at midnight on December 31 of the year in which such license is issued.

SEC. 3. Section 18711 of the Business and Professions Code is amended to read:

18711. Except as provided in subdivision (d) of Section 18653 and Section 18713, every club licensed under this chapter shall, within 72 hours after the determination of every contest, match, or exhibition for which an admission fee is charged and received, furnish to the commission a written report duly verified by one of its officers, showing the number of tickets issued or sold for such contest, match, or exhibition, the amount of the gross receipts or value thereof, and the gross price charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of such contest, match, or exhibition, and without any deductions, except for expenses incurred for the announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross base taxable when such expense is shown as an indirect overhead or loss and is approved by the commission. Such club shall also, within the same time, pay to the commission a tax, exclusive of any federal taxes paid thereon, of one cent ($0.01) for each twenty cents ($0.20), or fraction thereof, except for professional boxing clubs which shall pay one cent ($0.01) for each fifty cents ($0.50) or fraction thereof, of the amount paid for admission to such contest, match, or exhibition, and of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall such tax be less than fifty dollars ($50). The tax on admissions applies to the amount actually paid for admission, and not to the regular established price. No tax is due in the case of a person admitted free of charge.

SEC. 4. Section 18720.5 of the Business and Professions Code is amended to read:

18720.5. No person, except a cable television system franchised under Section 53066 of the Government Code, shall charge or receive an admission fee for exhibiting a simultaneous telecast of any live, current, or spontaneous boxing or sparring match, or wrestling

exhibition or performance, on a closed-circuit telecast viewed within this state without a permit therefor issued by the commission.

Application for such a permit shall be on a form supplied by the commission and shall contain such information as the commission deems necessary, including the locations where such telecasts are to be viewed. A permit shall be issued for each location where such telecast is to be viewed. The fee for a permit is fifty dollars ($50) each. The permit may be denied only for the following reasons:

(a) That the information required by the commission is not supplied by the applicant.

(b) That the applicant is currently in default on the payment of any taxes or fees required by this article.

SEC. 5. Section 18721 of the Business and Professions Code is amended to read:

18721. Every person, except a cable television system franchised under Section 53066 of the Government Code, who charges and receives a fee for exhibiting a simultaneous telecast of any live, current, or spontaneous boxing or sparring match, or wrestling exhibition or performance on a closed-circuit telecast viewed within this state shall, within 72 hours after such event, furnish to the commission a verified written report on a form which is supplied by the commission showing the number of tickets or subscriptions where an extra or additional fee is charged for the viewing, which were issued or sold, and the gross receipts therefor without any deductions whatsoever. Such person shall also, at the same time, pay to the commission a tax, exclusive of federal taxes thereon, of one cent ($0.01) for each twenty cents ($0.20) or fraction thereof, of the amount paid for admission or subscription telecast, as defined in Section 18720, to the showing or viewing of the contest, match, or exhibition. In no event, however, shall the tax be less than fifty dollars ($50). The tax shall apply uniformly at the same rate to all persons subject to the tax. The tax on admission applies to the amount actually paid for admission, and not to the regular established price. No tax is due in the case of a person admitted free of charge.

CHAPTER 1022

An act to amend Section 17740 of the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 17740 of the Education Code is amended to read:

17740. Except as provided in Section 17741, no project shall be approved, the building area of which, when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per unit of estimated average daily attendance in excess of that computed in accordance with Sections 17743, 17744, 17745, and 17746.

As used in Sections 17741.5, 17743, 17744, 17745, and 17746, "maximum area" means maximum area of school building construction and "attendance unit" means unit of estimated average daily attendance.

As used in this section and Sections 17745 and 17746, "attendance center" means a school maintained or to be maintained at a given location within a district.

No estimate of average daily attendance made by an applicant district for the purpose of justifying an application for an elementary school project shall be made for a longer time than the third fiscal year beyond the fiscal year in which an application is made, or in the case of an application for a junior high school or high school project, for a longer time than the fourth fiscal year beyond the fiscal year in which the application is made. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board.

For the purposes of this chapter, pupils attending grades 7 and 8 in an elementary district, but residing in a high school district which maintains one or more junior high schools, shall not be considered in determining or estimating the average daily attendance of the elementary district, unless one of the following conditions is met:

(a) The elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1975.

(b) The elementary district by a vote of the electorate at an election held on June 2, 1981, withdraws its 7th and 8th grade pupils from the high school district.

(c) The elementary district by a vote of the electorate at an election held on November 4, 1980, withdraws its 7th and 8th grade pupils from the high school district and the high school district continues to qualify for a project, other than a project pursuant to Section 17741, on the basis of the remaining 7th and 8th grade pupils. In no event shall a facility be constructed for the withdrawn 7th and 8th grade pupils at a distance less than four miles from the nearest proposed or existing junior high facility.

When such pupils are so considered in determining or estimating the average daily attendance of the elementary district, such pupils

shall not be considered in determining or estimating average daily attendance of the high school district for junior high school purposes.

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 7th and 8th grade students in at least one school district in the state will go without school housing during the 1982–83 fiscal year, unless a statute is enacted authorizing the Department of General Services to recompute the maximum area of school building construction pursuant to Section 1 of this act, it is necessary that this act take effect immediately.

CHAPTER 1023

An act to create the Fox Canyon Groundwater Management Agency and prescribing the boundaries, organization, operation, management, financing, and other powers and duties of the agency.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. This act shall be known and may be cited as the Fox Canyon Groundwater Management Agency Act.

Article 1. Creation

Sec. 102. A groundwater management agency is hereby created in Ventura County to be known as the Fox Canyon Groundwater Management Agency. The agency shall be governed by a board of directors as specified in Section 401, shall have the boundaries specified in Section 201, and shall exercise the powers granted by this act for purposes of groundwater management within the boundaries of the agency, together with such other powers as are reasonably implied and necessary and proper to carry out the objectives and purposes of the agency. The Legislature hereby finds and declares that the preservation of the groundwater resources within the territory of the agency for agricultural and municipal and industrial uses is in the public interest and that the creation of the agency pursuant to this act is for the common benefit of water users.

Article 2. Boundaries

Sec. 201. For the purposes of this act, the boundaries of the agency shall include all land overlying the Fox Canyon aquifer.

Sec. 202. The agency's initial boundaries shall be established by

the county board of supervisors after a noticed public hearing. The boundaries shall be depicted on a map which shall be adopted by the county board of supervisors and thereafter recorded in the office of the county recorder.

Sec. 203. The board may adjust the agency's boundaries in the same manner prescribed for establishment of the agency's initial boundaries if it determines that the territory overlying the Fox Canyon aquifer is different than the territory theretofore shown on the recorded map of the agency's boundaries.

Article 3. Definitions

Sec. 301. Unless otherwise indicated by their context, the terms defined in this article govern the interpretation of this act.

Sec. 302. "Agency" means the Fox Canyon Groundwater Management Agency established by this act.

Sec. 303. "Aquifer" means a geologic formation or structure that transmits water in sufficient quantities to supply pumping wells or springs. A confined aquifer is an aquifer with an overlying less permeable or impermeable layer.

Sec. 304. "Available supply" means that quantity of groundwater which can be withdrawn in any given year from a groundwater basin or aquifer without resulting in or aggravating conditions of overdraft, subsidence, or groundwater quality degradation. Available supply of a groundwater basin or aquifer includes the natural water supply, imported water, or other water which has been spread to a basin or aquifer or otherwise added to a basin or aquifer, and return flows to the basin or aquifer attributable to these sources reaching the groundwater basin or aquifers in the course of use.

Sec. 305. "Board" means the board of directors of the agency as more particularly described in Section 401.

Sec. 305.5. "Conjunctive use" means the coordinated operation of a groundwater basin and groundwater and surface water supplies. Conjunctive use includes increased groundwater use or decreased groundwater replenishment with surface supplies in years when surface supplies are less than normal and, in years of more abundant surface supplies, the increased use of surface water in lieu of groundwater, either to allow groundwater levels to recover or to replenish artificial groundwater supplies. Conjunctive use also includes long-term storage of water in a groundwater basin.

Sec. 306. "County" means the County of Ventura.

Sec. 307. "Extraction" means the act of obtaining groundwater by pumping or other controlled means.

Sec. 308. "Extraction facility" means any device or method for the extraction of groundwater within a groundwater basin or aquifer.

Sec. 309. "Groundwater" means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water.

Sec. 310. "Groundwater basin" means a geologically and

hydrologically defined area containing one or more aquifers which store and transmit water yielding significant quantities of water to wells.

Sec. 311. "Groundwater management activities" means programs, measures, or actions taken to preserve, protect, and enhance groundwater resources within the territory of the agency.

Sec. 312. "Groundwater rights adjudication" means the determination of substantially all rights in a groundwater basin or the area subject to the adjudication.

Sec. 313. "Lower aquifer system" means the Grimes, Hueneme, and Fox Canyon aquifers.

Sec. 314. "Member agency" means the United Water Conservation District, the county, the cities, and the special districts and mutual water companies entitled to representation on the agency's board of directors as specified in Section 401.

Sec. 315. "Notice" or a "noticed hearing" means the notice required by Section 6061 of the Government Code.

Sec. 316. "Off-basin use" means extracting groundwater from groundwater basins or aquifers for use on land not overlying the basin or aquifer.

Sec. 317. "Operator" means a person who operates a groundwater extraction facility. In the event the agency is unable to determine who operates a particular extraction facility, then "operator" shall mean the person to whom the extraction facility is assessed by the county assessor or, if not separately assessed, the person who owns the land upon which the extraction facility is located.

Sec. 318. "Overdraft" means the condition of the groundwater basin or aquifer where the average annual amount of water extracted exceeds the average annual supply of water to a basin or aquifer.

Sec. 319. "Person" includes any state or local governmental agency, private corporation, firm, partnership, individual, group of individuals, or, to the extent authorized by law, any federal agency.

Sec. 320. "Program" means a groundwater management program prepared by the agency pursuant to this act.

Sec. 321. "Recharge" means the natural or artificial replenishment of groundwater storage by percolation or injection of one or more sources of water at the surface.

Sec. 322. "Replenishment" means spreading water over a permeable area for the purpose of allowing it to percolate to groundwater basins or aquifers, or otherwise adding water to groundwater basins or aquifers.

Sec. 323. "Supplemental water" means surface water or groundwater imported from outside the watershed or watersheds of the groundwater basin or aquifer and flood waters that are conserved and saved within the watershed or watersheds which would otherwise have been lost or would not have reached the groundwater basin or aquifers.

Sec. 324. "Temporary surplus" means the amount of water that

can be extracted from a groundwater basin or aquifer, without permanently adversely affecting the available supply of that groundwater basin or aquifer, to provide storage space for natural or artificial recharge that would be lost during wet years if it could not be stored in the groundwater basin or aquifer.

Sec. 325. "United" means the United Water Conservation District of Ventura County.

Sec. 326. "Water year" means the period from October 1 of one calendar year through September 30 of the following calendar year.

Sec. 327. "Well interference" means a substantial water level decline in a short time period in a localized area caused by pumping from extraction facilities.

Article 4. General Provisions

Sec. 401. The agency shall be governed by the board of directors. The board shall consist of five members. One member shall be chosen by United and one member shall be chosen by the county. The representatives of the county and United shall be chosen by their respective governing boards from their board members whose districts or divisions overlie at least in part the territory of the agency. One member shall be chosen from the members of the city councils of the cities whose territory at least in part overlies the territory of the agency. One member shall be chosen from the members of the governing boards of the following mutual water companies and special districts not governed by the county board of supervisors which are engaged in water activities and whose territory at least in part overlies the territory of the agency: the Alta Mutual Water Company, the Anacapa Municipal Water District, the Berylwood Mutual Water Company, the Calleguas Municipal Water District, the Camrosa County Water District, the Del Norte Mutual Water Company, the Pleasant Valley County Water District, and the Zone Mutual Water Company. The members representing United, the county, the cities, and the special districts and mutual water companies shall serve for a two-year term of office or until the member is no longer an eligible official of the member agency and may serve for more than one term of office. The city member shall be chosen at a public meeting where each city is represented by its mayor. The special district and mutual water company member shall be chosen at a public meeting where each special district and mutual water company is represented by the chairman of its governing board. The fifth member of the board shall be chosen by the other four members for a two-year term to represent agricultural interests within the territory of the agency. The fifth member shall reside and be actively and primarily engaged in agriculture within the territory of the agency. Actively and primarily engaged in agriculture means deriving at least 75 percent of income from agriculture. The other four members shall select the fifth member from a list of at least five nominations from the Ventura County Farm Bureau and the

Ventura County Agricultural Association acting jointly. The five nominees need not be members of either organization. An alternate board member shall be selected by each appointing agency or group in the same manner as the regular member was selected, and that alternate shall act in place of the regular member from each appointing agency or group in case of absence or inability to act.

Sec. 402. No provision of this act shall be construed as denying to the county, United, or any other member agency any rights or powers they already have or which they may be granted.

The agency shall not involve itself in activities normally and historically undertaken by its member agencies, such as the construction and operation of dams, spreading grounds, pipelines, flood control facilities, and water distribution facilities, or the wholesale and retail sale of water, but shall limit its activities to planning, managing, controlling, preserving, and regulating the extraction and use of groundwater within the territory of the agency.

Sec. 403. The board may adopt ordinances for the purpose of regulating, conserving, managing, and controlling the use and extraction of groundwater within the territory of the agency. All ordinances shall be adopted, after noticed public hearings by a majority vote of the board. Notice of the adoption of all ordinances shall be given. The ordinances of the agency shall become effective on the 31st day after adoption except that the board may, by the vote of at least four members of the board, dispense with notice of public hearing and adopt an emergency ordinance which shall become effective immediately upon adoption, if the board determines that the public health, safety, or welfare so requires.

Sec. 404. Any person who intentionally violates any provision of this act or any agency ordinance shall be guilty of an infraction and may be required to pay a fine to the agency of not to exceed five hundred dollars ($500).

Sec. 405. Any person who negligently or intentionally violates any provision of this act or any agency ordinance may also be liable civilly to the agency for a sum not to exceed one thousand dollars ($1,000) per day for each day of such violation, in addition to any other penalties that may be prescribed by law.

Sec. 406. Upon the failure of any person to comply with any provision of this act or any agency ordinance the agency may petition the superior court for a temporary restraining order, preliminary or permanent injunction, or such other equitable relief as may be appropriate. The right to petition for injunctive relief is an additional right to those which may be provided elsewhere in this act or otherwise allowed by law.

Sec. 407. The agency may petition the superior court of the county to recover any sums due the agency. In order to preserve and manage the groundwater resources within its territory, the agency may also commence, maintain, intervene in, defend, compromise, and assume the costs and expenses of legal actions and administrative proceedings now or hereafter begun involving groundwater,

including, but not limited to, groundwater rights adjudication.

Sec. 408. The agency may contract with the county or United for staff and other services and may hire such other contractors and consultants as it considers appropriate.

Sec. 409. The agency may exclude from any of the requirements of this act, or the operation of any ordinance, any operator who extracts less than a minimum amount of groundwater as specified by ordinance adopted by the board.

Article 5. Studies and Investigations

Sec. 501. The agency may collect data and conduct technical and other investigations of all kinds in order to carry out the provisions of this act. All hydrological investigations and studies carried out by or on behalf of the agency shall be conducted by or under the supervision of licensed engineers or other persons qualified in groundwater geology or hydrology.

Sec. 502. The agency shall prepare annually or receive from its member agencies reports on groundwater and supplemental water supplies and conditions in the territory of the agency, including groundwater management and conjunctive use objectives and a plan for implementation of those objectives.

Sec. 503. The agency may recommend and encourage waste water reuse and other water development projects, where those projects will enhance and contribute to the responsible management of groundwater resources, as part of it's annual plan for implementation of groundwater management objectives.

Article 6. Groundwater Management Plans

Sec. 601. The agency shall develop, adopt, and implement a plan to control extractions from the Oxnard and Mugu aquifers with the objective of balancing water supply and demand in the Oxnard Plain of Ventura County by the year 2000.

Sec. 602. (a) The agency shall develop and adopt a lower aquifer management plan for future extractions from the lower aquifer system. As a part of this plan the agency shall determine the hydrologic characteristics of the lower aquifer system in the following geographical areas:

(1) Las Posas Basins.

(2) Pleasant Valley Basin.

(3) Oxnard Plain Basin (including forebay).

(4) Offshore area.

(b) For each such area the lower aquifer system management plan shall estimate the following:

(1) Existing groundwater storage.

(2) The average annual change in storage for the period 1980–2010.

(3) Groundwater storage for the year 2010.

(4) Long-term recoverable storage, including an estimate of nonrecoverable storage.

(5) The expected adverse effects of projected extractions.

(c) The lower aquifer system management plan shall include a policy for the issuance of new well permits for lower aquifer system wells which takes into consideration the location of proposed wells and area of use, projected extractions from the wells, and the effect of the extractions on existing users and on storage in the lower aquifer system. In developing the lower aquifer system management plan the agency shall consider a ban on new irrigated acreage or new municipal water system wells. As a further part of the lower aquifer system management plan the agency shall develop a contingency plan to deal with the possible occurrence of on-land seawater intrusion within the lower aquifer system. This contingency plan shall consider the possibility that new demands could result from upper aquifer system wells that may become inoperative.

(d) Notwithstanding any other provision of this act, the agency shall not regulate existing extraction from the lower aquifer system until the agency has completed and adopted its lower aquifer system management plan, unless it has determined at a noticed public hearing that there is evidence of inland seawater intrusion in the lower aquifer system or that there is less than 50 years of water supply remaining in any one of the groundwater basins listed in subdivision (a) which comprise the lower aquifer system. If the agency makes the requisite findings and seeks to regulate extractions prior to adoption of the lower aquifer system management plan, it may regulate extractions from one or more of the groundwater basins comprising the lower acquifer system without having to regulate extractions from the others by adopting a basin management plan. The impacts associated with regulating extractions within one or more basins upon all other basins within the system must be evaluated by the agency and incorporated in the basin management plan before it can be adopted and implemented.

Sec. 603. The plans required pursuant to this article shall be completed and adopted within three years after the effective date of this act.

Article 7. Groundwater Management

Sec. 701. If the board determines after a noticed public hearing, and consideration of any relevant investigations, studies, and evidence that groundwater management activities are necessary in order to improve or protect the quantity or quality of groundwater supplies within a groundwater basin or aquifer, the board may, by ordinance, exercise any of the following powers:

(a) Require conservation practices and measures within the affected portion of its territory.

(b) Control groundwater extractions by regulating, limiting, or suspending extractions from extraction facilities, the construction of

new extraction facilities, the enlarging of existing extraction facilities, and the reactivation of abandoned extraction facilities.

(c) Commence and prosecute legal actions to enjoin unreasonable uses or methods of use of water within the agency or outside the territory of the agency to the extent those uses or methods of use adversely affect the groundwater supply within the agency.

(d) Impose spacing requirements on new extraction facility construction to minimize well interference.

(e) Impose reasonable operating regulations on extraction facilities to minimize well interference, including requiring pumpers to operate on a rotation basis.

Sec. 702. The availability of supplemental water to any operator shall not subject that operator to regulations more restrictive than those imposed on other operators.

Article 8. Registration of Groundwater Extraction Facilities

Sec. 801. The agency may, by ordinance, require extraction facilities to be registered with the agency within 30 days of notice being given to the operator of the extraction facility.

Sec. 802. The agency may require, by ordinance, that the operator of a registered extraction facility provide the agency annually with the following information regarding the extraction facility:

(a) The name and address of the operator of the extraction facility.

(b) The name and address of the owner of the land upon which the extraction facility is located.

(c) A description of the equipment associated with the extraction facility.

(d) The location of the water extraction facility.

Sec. 803. It shall be a violation to extract groundwater from any extraction facility required to be registered unless the extraction facility has been registered with the agency.

Sec. 804. The agency may, by ordinance, require extraction facilities to be equipped with waterflow measuring devices installed and calibrated by the agency or, at the agency's option, by the extraction facility operator.

Sec. 805. It shall be a violation to extract groundwater from any extraction facility required to be equipped with a waterflow measuring device unless the extraction facility has been so equipped.

Sec. 806. When an extraction facility is equipped with a waterflow measuring device, the record of extraction, as disclosed by the waterflow measuring device, may at the election of the board be presumed to be accurate, and if so shall be used as the basis for computing the water extraction of the extraction facility in completing the groundwater extraction statement.

Sec. 807. The agency may, by ordinance, require proof of the

accuracy of the waterflow measuring device from the operator and may, absent adequate proof of accuracy, order the operator at the operator's sole cost to have the waterflow measuring device calibrated in a manner acceptable to the agency. If the agency has probable cause to believe that the extraction of groundwater from any extraction facility is in excess of the amount reported in groundwater extraction statements, or if no statements are filed covering an extraction facility, the agency may investigate the extraction of water from each extraction facility.

Sec. 808. It shall be a violation for any person to intentionally injure, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere or tamper with any waterflow measuring device affixed to any extraction facility as required by this act or any agency ordinance so that the waterflow measuring device improperly or inaccurately measures and records water extraction.

Sec. 809. The board may, by ordinance, establish reasonable methods to be used in computing the amount of water extracted by extraction facilities.

Sec. 810. The agency may, by ordinance, require the operator of each extraction facility to file annually with the agency or a member agency a groundwater extraction statement that contains, but is not limited to, the following information:

(a) Total extraction in acre-feet of water from the extraction facility for the preceding year.

(b) The static groundwater level for the extraction facility.

(c) A description of the location of the extraction facility.

(d) The crop types or other uses and the acreage served by the extraction facility.

(e) The method of measuring or computing groundwater extraction.

Each groundwater extraction statement shall be verified by a written declaration under penalty of perjury that the information contained in the statement is true and correct. The operator of an extraction facility which has been permanently abandoned after the effective date of this act shall give written notice of the abandonment to the agency.

Sec. 811. It shall be a violation for any person who is required to file a groundwater extraction statement, not to do so.

Sec. 812. It shall be a violation for any person, with intent to evade any provision or requirement of this act, to file a false or fraudulent groundwater extraction statement with the agency.

Article 9. Management Charges

Sec. 901. Each year the board may fix a management charge for the purpose of paying the costs of initiating, carrying on, and completing any of the powers, purposes, and groundwater management activities for which the agency is organized.

Sec. 902. Management charges shall be paid upon presentation

one-quarter each by United, the county, the cities whose territory at least in part overlies the territory of the agency, and the special districts and mutual water companies described in Section 401. For example, if four cities overlie the territory of the agency, each of those four cities shall pay one-quarter of one-quarter of such management charges, and similarly if four special water districts and four mutual water companies overlie the territory of the agency, each special water district and mutual water company shall pay one-eighth of one-quarter of the management charges.

Sec. 903. The board may fix management charges for the first three years only after the effective date of this act.

Article 10. Groundwater Extraction Charges

Sec. 1001. The agency may, by ordinance, levy groundwater extraction charges on the extraction of groundwater from all water extraction facilities within the territory of the agency for the purposes of paying the costs of initiating, carrying on, and completing any of the powers, purposes and groundwater management activities described in this act.

Sec. 1002. The Legislature hereby finds and determines that the groundwater management activities of the agency are of equal benefit to all operators of groundwater extraction facilities within the territory of the agency.

Sec. 1003. The groundwater extraction charge rate shall be uniform for groundwater extraction within the territory of the agency.

Sec. 1004. Groundwater extraction charges shall be calculated on the basis of groundwater extraction statements required to be filed pursuant to this act.

Sec. 1005. If any operator of any extraction facility fails to pay the groundwater extraction charge when due, the agency shall charge and collect interest at the rate of 1½ percent each month on the delinquent amount of the groundwater extraction charge. In addition, the agency may exercise any of the provisions of Sections 75630 to 75633, inclusive, of the Water Code for the purpose of collecting delinquent groundwater extraction charges.

Sec. 1006. All moneys collected by the agency pursuant to this act shall be available for expenditure by the agency in carrying out its groundwater management functions pursuant to this act.

Sec. 1007. The groundwater extraction charge shall not exceed fifty cents ($0.50) per acre foot pumped per year.

Sec. 1008. 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 because certain 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 1024

An act to repeal Section 12151 to the Welfare and Institutions Code, relating to public assistance.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 12151 of the Welfare and Institutions Code is repealed.

CHAPTER 1025

An act to amend Section 15200.4 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 15200.4 of the Welfare and Institutions Code is amended to read:

15200.4. (a) In administering the Aid to Families with Dependent Children program provided for under Chapter 2 (commencing with Section 11200), excluding provisions relating to foster care, the director may impose sanctions as provided by this section to assure adequate county administration performance. Fiscal sanctions may be imposed against a county only if the department has conducted, within the county, a statistically reliable and valid case sample with a confidence level of at least 95 percent.

(b) 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. Counties which exceed the standard during the sanction period may be apportioned

a sanction no greater than the state share of the Aid to Families with Dependent Children program payments multiplied by the amount by which the statistical measure of the lower point estimate of their error rate exceeded the standard.

(c) 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. 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 pending fiscal sanctions create undue hardships on local government financing, and the provisions of this act are essential for removing these hardships, it is necessary that this act go into immediate effect.

CHAPTER 1026

An act to add Article 9.5 (commencing with Section 426) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to health.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Article 9.5 (commencing with Section 426) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 9.5. Indoor Environmental Quality

426. The Legislature finds and declares that:

(a) The people of the State of California have a primary interest in the quality of the indoor environment in which they live.

(b) As people spend greater portions of time each day indoors, the environmental quality of our buildings becomes increasingly important.

(c) Changes in building design, materials, construction, and operation have resulted in significant changes in indoor environmental quality.

(d) Activities and use of chemical products, appliances, power equipment, wear and tear of structural decorative materials, thermal factors, and mechanical ventilation are degrading the indoor environment, thereby creating mounting dangers to the public health, safety, and welfare.

426.2. The Legislature, in view of the findings and declarations specified in Section 426, declares that the public interest shall be safeguarded by a coordinated, coherent state effort to protect and enhance the indoor environmental quality in residences, public buildings, and offices in the state.

426.4. For the purpose of this article, "indoor environmental quality" means the environment inside a residential dwelling, including a house or apartment, or inside a school, office, public building, or other facility to which the general public has access. The term "indoor environmental quality" shall not include industrial working environments.

426.6. The State Department of Health Services shall coordinate efforts to assess, protect, and enhance indoor environmental quality.

426.8. The State Department of Health Services shall conduct and promote the coordination of research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of indoor pollution.

SEC. 2. Section 1 of this act shall become operative only if the Statutes of 1982 include an appropriation which is specifically for the purposes of the provisions enacted by this act.

CHAPTER 1027

An act to add and repeal Sections 3482.6 and 3482.7 of the Civil Code, and to amend Sections 21682, 21684, and 21687 of the Public Utilities Code, relating to aviation.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. The Legislature finds and declares that it is in the public interest to continue and maintain a program of annual grants to eligible public airports. It is further in the public interest that the Department of Transportation maintain the minimum administrative control over the annual grant program consistent with insuring that limited funds available are expended in a timely fashion on eligible projects which are of benefit to the state's airport system.

SEC. 1.5. Section 3482.6 is added to the Civil Code, to read:

3482.6. (a) No action for damages alleged to have been caused by aircraft noise, brought pursuant to the provisions of this part, may

be maintained against an airport owned and operated by a county or city and county but physically located in another county or city and county operating in compliance with the noise standards adopted by the Department of Transportation pursuant to Section 21669 of the Public Utilities Code including an airport operating in compliance with a variance issued to the airport by the Department of Transportation.

(b) No action may be maintained against an airport owned and operated by a county or city and county but physically located in another county or city and county by any person unless that person resides in an area where the level of noise exceeds the applicable criterion for residential areas established by the noise standards adopted by the Department of Transportation pursuant to Section 21669 of the Public Utilities Code.

(c) In no event shall the provisions of this section be used to prevent any legal action by any resident of a city of over 2,000,000 population.

(d) This section shall remain in effect only until January 1, 1985, 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. 1.6. Section 3482.7 is added to the Civil Code, to read:

3482.7. (a) If, in any civil action, the operations of any airport owned and operated by a county or city and county but physically located in another county or city and county holding a permit issued by the Department of Transportation pursuant to Section 21662 of the Public Utilities Code are found to be a nuisance, they shall be deemed to be a permanent nuisance and not a continuing nuisance.

(b) In no event shall the provisions of this section be used to prevent any legal action by any resident of a city of over 2,000,000 population.

(c) This section shall remain in effect only until January 1, 1985, 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 21682 of the Public Utilities Code is amended to read:

21682. (a) The department shall establish individual revolving fund subaccounts for eligible airports in the Aeronautics Account of the State Transportation Fund. Money payable under this section shall be credited to individual airport subaccounts annually, and may be accumulated for a maximum period of five years.

(b) The department shall, subject to Section 21684, credit from the Aeronautics Account to each public entity owning and operating an airport or airports under a valid permit issued by the department for every airport which has less than 85,000 annual enplanements the sum of five thousand dollars ($5,000) annually for each such airport. These funds shall be paid to public entities upon request for expenditure on preapproved eligible projects. Eligible public entities may submit applications for the withdrawal of credited funds for expenditure on proposed projects in letter form to the

department for review and approval. Projects identified shall be for airport and aviation purposes and operation and maintenance purposes. Payment under this section is conditioned upon each public entity proving to the satisfaction of the department that no more than 85,000 enplanements occurred at each airport for which funding is being sought. No payment made under this section is transferable, but shall be expended only upon the airport for which the payment is made; provided, that the department may grant a waiver in extenuating circumstances. The department may establish such accounting systems as it deems necessary to provide for the cumulation and expenditure of funds under this subdivision.

(c) If, in any year, there is insufficient money in the Aeronautics Account to make the credits specified in subdivision (b), the department shall, subject to Section 21684, credit to each such public entity subaccount an amount which is equal to the total amount of money in the Aeronautics Account multiplied by a percentage equivalent to the proportion which the airport or airports of the public entity for which credit is required to be made pursuant to subdivision (b) bear to the total number of airports for which credit is required to be made pursuant to subdivision (b).

(d) No payment shall be made under this section to any public entity for any airport on which general or commercial aviation activities are substantially restricted if the airport is licensed to conduct such activities by the department. The department shall determine whether or not general or commercial aviation activities are restricted.

(e) The department shall adopt rules and regulations and establish procedures to effect prompt payment to public entities for eligible airport projects from money credited pursuant to this section.

SEC. 3. Section 21684 of the Public Utilities Code, as amended by Section 1 of Chapter 532 of the Statutes of 1981, is amended to read:

21684. (a) No payment shall be made to a public entity pursuant to this article unless the public entity has established a special aviation fund in which all payments received by a public entity under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made to a public entity pursuant to Section 21682 or 21683 unless the public entity deposits in its special aviation fund, for expenditures solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on a rate established annually by the commission as matching funds. The commission shall establish a rate of at least 10 percent and not exceeding 50 percent of the nonfederal funded portion. However, the rate shall be uniform for all entities and projects within a particular year. In no event shall the sum deposited in the special aviation fund be less than 10 percent of the total eligible project costs.

Notwithstanding the provisions of this subdivision requiring matching funds, the department shall pay a sum of five thousand dollars ($5,000) annually to each city, county, airport district, or the

University of California owning and operating an airport in accordance with Section 21682.

(b) No payment shall be made for any airport to the University of California pursuant to this article unless the university has established a special aviation fund in which all payments received by the university under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made for any airport to the University of California pursuant to Section 21682 or 21683 unless the university deposits in its special aviation fund, for expenditure solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on the rate established annually by the commission pursuant to subdivision (a), or unless a city located within 10 miles of the airport, or the county within which the airport is located, pays to the university a sum based on the rate established by the commission pursuant to subdivision (a). However, any sums so deposited by the university or paid by the city or county may be considered jointly as meeting the requirements of this section. The payments received from a city or county pursuant to these sections are to be expended solely for the airport and for aviation purposes related to such airport. All payments received by the university shall be deposited in its special aviation fund.

(c) Payments made by the department pursuant to Section 21682 and funds provided by public entities to match these payments may be accrued for a period of not more than five years. Extension of time for accrual of these funds for major projects shall be obtained from the department.

(d) This section shall remain in effect only until July 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1986, deletes or extends that date.

SEC. 4. Section 21684 of the Public Utilities Code, as amended by Section 2 of Chapter 532 of the Statutes of 1981, is amended to read:

21684. (a) No payment shall be made to a public entity pursuant to this article unless the public entity has established a special aviation fund in which all payments received by a public entity under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made to a public entity pursuant to Section 21682 or 21683 unless the public entity deposits in its special aviation fund, for expenditures solely for airport and aviation purposes, a sum at least equal to the amount to be paid by the commission or the department pursuant to these sections.

(1) Notwithstanding the provisions of this subdivision requiring matching funds, the department shall pay a sum of five thousand dollars ($5,000) annually to a county with a population of under 1,000, as determined by the last federal decennial census, for the purpose of constructing and maintaining an airport.

(2) Notwithstanding the provisions of this subdivision requiring matching funds, the department shall pay the sum of five thousand dollars ($5,000) annually to each city, county, airport district, or the University of California owning and operating an airport or airports

in accordance with Section 21682.

(b) No payment shall be made for any airport to the University of California pursuant to this article unless the university has established a special aviation fund in which all payments received by the university under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made for any airport to the University of California pursuant to Section 21682 or 21683 unless the university deposits in its special aviation fund each year, for expenditure solely for airport and aviation purposes, a sum from nonstate or nonfederal funds at least equal to the amount to be paid by the commission or the department pursuant to these sections, or unless a city located within 10 miles of the airport or the county within which the airport is located pays to the university a sum at least equal to the amount to be paid by the commission or the department pursuant to these sections. However, any sums so deposited by the university or paid by the city or county may be considered jointly as meeting the requirements of this section. The payments received from a city or county pursuant to these sections are to be expended solely for the airport and for aviation purposes related to such airport. All payments received by the university shall be deposited in its special aviation fund.

(c) Payments made by the department pursuant to Section 21682 and funds provided by public entities to match these payments may be accrued for a period of not more than five years. Extension of time for accrual of these funds for major projects must be obtained from the department.

(d) This section shall become operative on July 1, 1986.

SEC. 5. Section 21687 of the Public Utilities Code is amended to read:

21687. (a) Whenever any airport, for which payments have been made from the Aeronautics Account or any predecessor fund, ceases to be used as an airport open to the general public for a period in excess of one year, the public entity to which such payments were made shall pay to the state, which payments shall be deposited in the Aeronautics Account, an amount computed by the Controller. The amount shall equal the total of all payments made for such airport from the Aeronautics Account during the preceding 20 years less 5 percent of the amount of a particular payment multiplied by the number of years since the payment was made, or the unused balance, whichever is greater. This section shall not be applicable to an airport that is replaced by a comparable facility, as determined by the department, within a period of one year.

(b) This section shall not apply in the case of an airport for which the department has on or after January 1, 1981, suspended the airport permit and for which payments made pursuant to this article are being expended to correct the deficiency or condition which resulted in the suspension of the airport's permit.

SEC. 6. The Legislature finds and declares that Sections 1.5 and 1.6 of this act are necessary since special facts and circumstances

applicable to airports situated outside the jurisdiction of the public agency owner or operator, and not generally applicable, make the accomplishment of this purpose impossible by any general law. These provisions constitute a recognition by the Legislature of the unique problems that face public agency operators of airports which are not located within their own jurisdictions in terms of assuring the approval of their own residents for public works projects through the political processes. The Legislature further declares that the purpose of this act is impossible to accomplish by any general law, and that special legislation applicable only to these airports and their operators is therefore necessary.

SEC. 7. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of 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 1028

An act to add Sections 17297.5 and 24436.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 17297.5 is added to the Revenue and Taxation Code, to read:

17297.5. (a) In computing taxable income, no deductions (including deductions for cost of goods sold) shall be allowed to any taxpayer on any of his or her gross income directly derived from illegal activities as defined in Chapter 4 (commencing with Section 211) of Title 8 of, Chapter 8 (commencing with Section 314) of Title 9 of, or Chapter 2 (commencing with Section 459), Chapter 4 (commencing with Section 484), or Chapter 5 (commencing with Section 503) of Title 13 of, Part 1 of the Penal Code, or as defined in Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety 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, those illegal activities.

(b) 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 the State Board of Equalization.

(c) This section shall be applied with respect to taxable years which have not been closed by a statute of limitations, res judicata, or otherwise.

SEC. 2. Section 24436.1 is added to the Revenue and Taxation Code, to read:

24436.1. (a) In computing net income, no deductions (including deductions for cost of goods sold) shall be allowed to any taxpayer on any of its gross income directly derived from illegal activities as defined in Chapter 4 (commencing with Section 211) of Title 8 of, Chapter 8 (commencing with Section 314) of Title 9 of, or Chapter 2 (commencing with Section 459), Chapter 4 (commencing with Section 484), or Chapter 5 (commencing with Section 503) of Title 13 of, Part 1 of the Penal Code, or as defined in Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code; nor shall any deductions be allowed to any taxpayer on any of its gross income derived from any other activities which directly tend to promote or to further, or are directly connected or associated with, those illegal activities.

(b) 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 the State Board of Equalization.

(c) This section shall be applied with respect to income years which have not 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 1029

An act to add Article 4 (commencing with Section 79150) to Chapter 9 of Part 48 of the Education Code, relating to public education, and making an appropriation therefor.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. (a) The Legislature finds and declares that:

(1) The CARE program (cooperative agencies resources for education) is a unique educational program geared toward the welfare recipient who desires job-relevant education to break the

dependency cycle.

(2) The CARE program links existing educational welfare and job training programs and moneys into a cooperative unit to help the CARE enrollee break out of the welfare cycle into the productive career world

(3) The CARE program is a cooperative effort involving the State Employment Development Department, the State Department of Social Services, local county welfare departments, the Chancellor's office of the California Community Colleges, and the individual community colleges through extended opportunity programs and services.

(4) A special outreach and support effort targeted specifically to welfare recipients is needed to assist them in succeeding in a community college setting.

(5) Many welfare recipients with children are desirous of preparing for employment through job-relevant study in a community college towards the completion of high school diploma requirements, attainment of an associate of arts degree, or other college-specific certificates, but cannot do so because of lack of child care and transportation services.

(6) It is the intent of the Legislature that the number of welfare recipients enrolled in the CARE program be maintained and expanded so that welfare recipients may be given an opportunity to expand their education and job training opportunities, and thereby enhance their employability and minimize their need for welfare assistance. It is also the intent of the Legislature that welfare recipients become convinced that they and their children are important, that they are capable, and that with proper support they can break the welfare dependency cycle through education and job training.

SEC. 2. Article 4 (commencing with Section 79150) is added to Chapter 9 of Part 48 of the Education Code, to read:

Article 4. Cooperative Agencies Resources for Education Program

79150. The Chancellor's office of the California Community Colleges, in cooperation with the State Department of Social Services and the State Employment Development Department, may enter into agreements with community college districts, which presently have cooperative agencies resources for education programs, for the purpose of providing additional funds for support services for those programs. Support services shall include, but not be limited to, child care and transportation allowances, books and supplies, counseling, and other related services.

79151. Each community college district specified in Section 79150 may apply for the funds pursuant to this article. Each district shall demonstrate that all existing resources have been exhausted, the number of new welfare recipients who will be served, and the extent

of cooperation between the local county welfare department and the State Employment Development Department, the educational opportunity programs and services program, and campus child development programs.

79152. Participants in cooperative agencies resources for education programs shall be at least 18 years of age, be a single head-of-household, be receiving Aid to Families with Dependent Children, and be desirous of completing their high school education or pursuing a job-relevant curriculum.

79153. The Chancellor's office of the California Community Colleges, with input from the State Department of Social Services and the State Employment Development Department, shall evaluate the cooperative agencies resources for education programs operated pursuant to this article and report to the Legislature on or before November 1, 1983, on the program's performance. The report shall also include recommendations concerning program improvement and expansion.

79154. The chancellor's office of the California Community Colleges, in conjunction with the State Department of Social Services and the State Employment Development Department, shall adopt guidelines for the cooperative agencies resources for education programs. The chancellor's office shall be responsible for the administration of the funds for the program.

79155. (a) For the 1982–83 fiscal year, there is hereby reappropriated the sum of two hundred fifty thousand dollars ($250,000) from the unencumbered balances of the funds appropriated by Item 5100-001-001 of the Budget Act of 1982 (Ch. 326, Stats. 1982) to the Chancellor's office of the California Community Colleges for the purposes of this article.

(b) For the 1983–84 fiscal year and each fiscal year thereafter, this article shall be operative only if funds are specifically appropriated for the purposes of the cooperative agencies resources for education programs pursuant to this article.

CHAPTER 1030

An act relating to the State Lands Commission, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982 Filed with Secretary of State September 14, 1982]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Chapter 145 of the Federal Statutes of 1853 granted to the State of California from the public domain the 16th and 36th sections

of every township for the support of schools. Because some of the sections to which the state was entitled had been sold, preempted, or included within Indian, military, or other reservations, or were otherwise disposed of by the United States, prior to survey, the state could select other public lands as indemnity or in-lieu lands. In December 1978, the Bureau of Land Management and the State Lands Commission, after completing a comprehensive audit, concluded that the State of California was entitled to select not less than 62,423.59 acres.

(b) Two sections of land lost to the federal government are located within the Naval Petroleum Reserve at Elk Hills in Kern County. They comprise 1,332.39 acres of known recoverable oil reserves estimated at 60 million barrels. The State Lands Commission is working with the Bureau of Land Management to establish the value of these two parcels and to identify federal lands of similar mineral character and value to select in-lieu of the Elk Hills parcels. Approximately 50 currently producing federal leases have been nominated for consideration. Based upon preliminary estimates, the state should receive between twenty million dollars ($20,000,000) and twenty-five million dollars ($25,000,000) in the current fiscal year and thirty-five million dollars ($35,000,000) to fifty million dollars ($50,000,000) each fiscal year thereafter, at current oil prices. That revenue would be deposited in the General Fund pursuant to Section 6217.5 of the Public Resources Code.

(c) In determining the value of mineral resources, the State Lands Commission will obtain the services of an expert appraiser of oil and gas reserves. In addition, the commission, in the management and supervision of the acquired mineral lands, will need increased staff to perform engineering and geological studies, production inspections, environmental reviews and resource assessments, and accounting and auditing services. The commission's primary management objective is to provide an orderly and controlled system for exploration and development of oil and gas resources while maintaining public safety and protection of the environment and, at the same time, maximizing revenue to the state.

SEC. 2. The sum of five hundred fifty thousand dollars ($550,000) is hereby appropriated from the General Fund to the State Lands Commission in augmentation of Item 3560-001-001 of the Budget Act of 1982 (Chapter 326, Statutes of 1982) for new positions, professional and consulting services, and related costs incurred by the State Lands Commission.

SEC. 3. Notwithstanding any other provision of law, the sum of five hundred fifty thousand dollars ($550,000) shall be deposited in the General Fund from tidelands oil and gas revenues after the allocation of revenues pursuant to subdivision (a) of Section 6217 of the Public Resources Code and before any other allocation provided by law.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to expedite the acquisition of certain lands by the state and to thereby maximize revenues to the state in the current and succeeding fiscal years, it is necessary that this act take effect immediately.

CHAPTER 1031

An act to add Chapter 7 (commencing with Section 15985) to Part 13 of Division 3 of Title 2 of the Government Code, to amend Sections 226, 730.3, and 5384 of, and to repeal Section 730.5 of, the Public Utilities Code, relating to transportation of passengers.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Chapter 7 (commencing with Section 15985) is added to Part 13 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 7. IMPLEMENTATION

15985. Provisions of the Public Utilities Code and orders and regulations of the Public Utilities Commission relating to common carriers of passengers shall not apply to social service transportation delivered by a nonprofit social service transportation provider or to a locally licensed or franchised for-profit transportation provider which operates, in dedicated vehicles, social service transportation pursuant to contract with a nonprofit social service transportation provider organization.

This section does not apply to a nonprofit social service transportation provider that uses one or more vehicles which are designed for carrying more than 16 persons including the driver or that operates vehicles which offer transportation services over regularly scheduled or fixed routes.

15986. No county, city, or district may impose a special license or fee for social service transportation provided by a nonprofit social service transportation provider organization or by a for-profit transportation provider, operating under local license or franchise, which provides social service transportation pursuant to contract with a nonprofit social service transportation provider organization.

SEC. 2. Section 226 of the Public Utilities Code, as amended by Chapter 185 of the Statutes of 1982, is amended to read:

226. (a) "Passenger stage corporation" includes every corporation or person engaged as a common carrier, for

compensation, in the ownership, control, operation, or management of any passenger stage over any public highway in this state between fixed termini or over a regular route except those, 98 percent or more of whose operations as measured by total route mileage operated, which are exclusively within the limits of a single city or city and county, or whose operations consist solely in the transportation of bona fide pupils attending an institution of learning between their homes and that institution.

For the purposes of this section, the percentage of the route mileage within the limits of any city shall be determined by the Public Utilities Commission on the first day of January of each year, and the percentage so determined shall be presumed to continue for the year.

(b) "Passenger stage corporation" does not include that part of the operations of any corporation or person engaged in the ownership, control, operation, or management of any passenger stage over any public highway in this state, whether between fixed termini or over a regular route or otherwise, engaged in the transportation of any pupils or students to and from a public or private school, college or university or to and from activities of a public or private school, college or university, where the rate, charge, or fare for that transportation is not computed, collected, or demanded on an individual fare basis.

(c) "Passenger stage corporation" does not include the transportation of persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of 15 passengers or less, including the driver, which is used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver. This exemption does not apply if the primary purpose for the transportation of those persons is to make a profit. "Profit," as used in this subdivision, does not include the recovery of the actual costs incurred in owning and operating a vanpool vehicle, as defined in Section 668 of the Vehicle Code.

(d) "Passenger stage corporation" does not include that part of the operations of any corporation or person engaged in the ownership, control, operation or management of any medical transportation vehicles.

(e) "Passenger stage corporation" does not include the transportation of persons which is ancillary to commercial river rafting and is for the sole purpose of returning passengers to the point of origin of their rafting trip.

(f) "Passenger stage corporation" does not include social service transportation delivered by a nonprofit social service transportation provider or a locally licensed or franchised for-profit transportation provider which operates, in dedicated vehicles, social service transportation pursuant to contract with a nonprofit social service transportation provider organization as long as the provider does not use a vehicle designed for carrying more than 16 persons including

the driver or does not operate vehicles which offer transportation services over regularly scheduled or fixed routes.

SEC. 3. Section 730.3 of the Public Utilities Code is amended to read:

730.3. The commission shall notify every state and local public agency and corporation operating a passenger transit system making a written request for such notification before approving any rate increase for the passenger transportation services of any railroad or passenger state corporation within the territory served by such public transit system.

SEC. 4. Section 730.5 of the Public Utilities Code is repealed.

SEC. 5. Section 5384 of the Public Utilities Code is amended to read:

5384. The commission shall issue permits to persons, who are otherwise qualified, whose passenger carrier operations fall into the following categories:

(a) Specialized carriers, who do not hold themselves out to serve the general public, but only provide service under contract with industrial and business firms, governmental agencies and private schools or who only transport agricultural workers to and from farms for compensation or who only conduct transportation services, which are incidental to another business. The permits shall be limited to a 50-mile radius of operation from the home terminal.

(b) Carriers using only vehicles under 15-passenger seating capacity and under 20 feet in length.

CHAPTER 1032

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 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Springville Public Utility 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 Alpaugh Irrigation 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. 3. 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 Tulare County Water Works District No. 1 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. 4. 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 Allensworth Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 5. 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 Armona Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 6. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Lindsay 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. 7. 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 Home Garden Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 8. 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 Santa Ynez River Water Conservation 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. 9. 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 Strathmore Public Utility 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. 10. A grant not to exceed the amount of one hundred twenty thousand dollars ($120,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Columbine 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. 11. A grant not to exceed the amount of one hundred eighteen thousand dollars ($118,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Corona-Norco Unified 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. 12. 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 East Niles Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 13. 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 Edison 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. 14. 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 Indian Wells Valley Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 15. 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 Ivanhoe Public Utility 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. 16. A grant not to exceed the amount of one hundred sixty-seven thousand dollars ($167,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Meridan Public Utility 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. 17. 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 Oceano Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 18. 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 Riverside County Services Area No. 122 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. 19. A grant not to exceed the amount of eighty-four thousand dollars ($84,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Sanger Unified 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. 20. 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 Santa Cruz County Water Works District No. 1 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. 21. A grant not to exceed the amount of three hundred thousand dollars ($300,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Ventura County Services Area No. 30 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. 22. A grant not to exceed the amount of one hundred forty-five thousand dollars ($145,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Visalia Unified 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. 23. A grant not to exceed the amount of two hundred thousand dollars ($200,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Bolinas Community Public Utilities 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. 24. A grant not to exceed the amount of one hundred twenty-six thousand dollars ($126,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Darwin Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 25. 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 Inverness Public Utilities 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. 26. A grant not to exceed the amount of two hundred thousand dollars ($200,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Santiago County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of

Water Resources shall determine eligibility for 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. 27. 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 Orosi Public Utilities 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. 28. 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 Tulare County 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. 29. 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 Ducor Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 30. 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 Anderson Springs 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. 31. 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 Kettlemen City Community Services District for the purpose of improving its domestic water supply

system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for 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. 32. The Legislature hereby finds and declares that in order to meet the minimum safe drinking water standards there is a critical need within the entities identified in Sections 1 to 31, inclusive, to immediately undertake certain improvements necessary to enable the residents of those communities to have a dependable and potable water supply.

SEC. 33. The Legislature further finds and declares that the water systems of the entities identified in Sections 1 to 31, inclusive, have critical deficiencies in the areas of treatment, storage, and distribution which pose a serious threat to the public health and welfare of all consumers within those communities and that each entity is only barely meeting the demand for water within the community.

SEC. 34. The Legislative 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. 35. Subject to the provisions of Chapter 10.5 (commencing with Section 13850) and Chapter 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. 36. 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. 37. This act is an urgency statute necessary for the

immediate preservation of 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 entities identified in the provisions of this act to resolve the critical water supply problem of the communities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1033

An act to amend Sections 68525 and 69948 of the Government Code, relating to courts.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 68525 of the Government Code is amended to read:

68525. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in Alpine, Glenn, Madera, Monterey, Sutter, or Tehama County. Such records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of any such county and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period.

(2) The fees charged and the fees collected for such transcripts.

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts.

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

SEC. 2. Section 69948 of the Government Code is amended to read:

69948. (a) The fee for reporting testimony and proceedings in contested cases is fifty-five dollars ($55) a day, or any fractional part thereof.

(b) In San Joaquin County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court

reporters.

(c) In Madera County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) a day, or any fractional part thereof.

(d) In Kings County, the fee for reporting testimony and proceedings in contested cases is seventy dollars ($70) a day, or any fractional part thereof.

(e) In Mariposa County, the fee for reporting testimony and proceedings in contested cases is seventy dollars ($70) a day, or any fractional part thereof.

(f) In Siskiyou County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(g) In Yuba County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) a day, or any fractional part thereof.

(h) In Butte County, pro tempore reporters shall receive a fee of seventy-five dollars ($75) a day, or any fractional part thereof, for reporting testimony and proceedings in contested cases.

(i) In Sutter County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) a day, or any fractional part thereof.

(j) In Napa County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(k) In Tehama County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(*l*) In Monterey County, the fee for reporting testimony and proceedings in contested cases in any court is seventy-five dollars ($75) a day or any fractional part thereof.

(m) In Nevada County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(n) In Calaveras County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof.

(o) In Placer County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(p) In Sierra County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof.

(q) In Trinity County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(r) In Humboldt County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof.

(s) In Del Norte County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof.

(t) In Alpine County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(u) In Glenn County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

SEC. 3. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for county reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so as to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Alpine and Glenn Counties is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in such counties in view of the submitted request for an adjustment in the compensation provided to court reporters in such county.

SEC. 4. If any provision of Section 1 or 2 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of such provisions shall be void, and to this end the provisions of such sections are inseverable.

CHAPTER 1034

An act to amend Section 33.1 of the Monterey County Flood Control and Water Conservation District Act (Chapter 699 of the Statutes of 1947), relating to the Monterey County Flood Control and Water Conservation District.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 33.1 of the Monterey County Flood Control and Water Conservation District Act (Chapter 699 of the Statutes of 1947) is amended to read:

Sec. 33.1. Any territory in the district lying within the watershed within which a zone is situated may be annexed to such zone pursuant to this section. Territory which is in or annexed to one zone may be annexed to such other zone pursuant to this section.

Notwithstanding any other provisions of this act, the following shall apply with respect to the annexation of new territory to any zone:

(a) A petition for annexation by election signed by 25 percent of

the freeholders residing in the territory proposed to be annexed as shown by the last equalized assessment roll of the county shall be presented to the board. The petition shall designate specifically the boundaries of the territory proposed to be annexed and its assessed valuation as shown by the last equalized assessment roll and shall ask that the territory be annexed to the zone. The petition shall be accompanied by a bond in the sum of not less than one hundred dollars ($100), to be approved by the board and filed with the clerk of the board as security for the payment by the petitioners of the reasonable cost of the election on annexation, in the event that at the election less than a majority of the votes cast are in favor of annexation. The petition shall be verified by the affidavit of one of the petitioners. The petition shall be published by the petitioners for at least two weeks preceding its hearing in a newspaper of general circulation published in the zone, if there is one, or, if not, in a newspaper of general circulation published in the district, together with a notice stating the number of signers of the petition, the time when the petition will be presented to the board and that all persons interested may appear and be heard. It shall not be necessary to publish the names of the signers. At the time specified for the hearing, the board shall hear the petition and may adjourn the hearing from time to time. Upon final hearing of the petition, the board, if it approves the petition as originally presented or in a modified form, shall make an order describing the exterior boundaries of the territory proposed to be annexed and ordering that an election be held in such territory for the purpose of determining whether or not the territory shall be annexed to the zone. The order shall fix the day of the election, which shall be within 60 days from the date of the order, and shall show the boundaries of the territory proposed to be annexed to the zone and shall set forth the measure to be submitted to the voters of such territory and shall designate the precincts, polling places and election officers for such election and state the times between which the polls shall be open. The order shall be published pursuant to Government Code Section 6066. This order shall be entered in the minutes and is conclusive evidence of a due presentation of a proper petition, and of the fact that each of the petitioners was, at the time of the signing and presentation of the petition, qualified to sign. The election shall be held and conducted as provided in Chapter 1 (commencing with Section 22000), Part 1, Division 12 of the Elections Code and sample ballots and polling place cards shall be mailed as provided in Elections Code Section 10012. If a majority of the votes in the territory proposed to be annexed at an election called therein by the board for that purpose are in favor of the annexation, the clerk of the board shall make and cause to be entered in the minutes and endorsed on the petition an order approving the petition and the petition shall be filed. The entry is conclusive evidence of the fact and regularity of all prior proceedings of every kind required by law and of the facts stated in the entry. The board at its next regular meeting after the entry shall,

by an order, alter the boundaries of the zone and annex to it the territory described in the petition. The order of the board is conclusive evidence of the validity of all prior proceedings leading up to the annexation and recited in the order, and from and after the order the territory is part of the zone. If, at the election, less a majority of the votes in a territory proposed to be annexed are in favor of the annexation of the territory to the zone, the signers of the petition shall, within 10 days after the canvassing of the votes of the election, pay to the board the reasonable cost of the election and, if not paid within 10 days, the board may sue on the bond to recover the cost of the election. If the result of the election is against annexation, the board shall, by order, disapprove the petition and enter the order in its minutes. No other proceeding shall be taken in relation thereto until the expiration of six months from the presentation of the petition, except to collect the costs of the election.

(b) A petition for annexation without election signed by the owners of real property in the territory proposed to be annexed, which real property represents at least 75 percent of the total assessed valuation of real property in the territory as shown by the last equalized county assessment roll, shall be presented to the board. The petition shall designate specifically the boundaries of the territory and the assessed valuation of real property therein as shown by the last equalized county assessment roll and shall show the amount of real property owned by each of the petitioners and its assessed valuation as shown by the last equalized county assessment roll. The petition shall ask that the territory be annexed to the zone. The petition shall be verified by the affidavit of one of the petitioners. It shall be published by petitioners at least two weeks preceding the hearing in a newspaper of general circulation published in the zone, if there is one, or, if not, in a newspaper of general circulation published in the district. With the petition there shall be published a notice stating the number of signers of the petition, the time when the petition will be presented to the board and stating that all persons interested may appear and be heard. It shall not be necessary to publish the names of the signers. A printed copy of the petition and notice as so published shall be mailed pursuant to Government Code Sections 53520 to 53523, inclusive. At the time designated the board shall hear the petition and any person interested, and may adjourn the hearing from time to time. Upon the hearing of the petition, the board shall determine whether or not it is for the best interests of the zone and the territory that the territory be annexed to the zone and the board may modify the boundaries of the territory proposed to be annexed as set forth in the petition by decreasing the area of such territory. If the board upon final hearing determines that it is for the best interests of the zone and of the territory proposed to be annexed that the territory be annexed, it shall make an order describing the boundaries of the territory proposed to be annexed and shall alter the boundaries of the zone

and annex to it the territory described in the petition and the territory is then a part of the zone.

(c) A petition for annexation without election signed by 100 percent of the owners of real property in the territory proposed to be annexed may be presented to the board. The petition shall designate specifically the boundaries of the territory and shall ask that the territory be annexed to the zone. The petition shall be verified by the affidavit of one of the petitioners. The board shall then determine, upon reviewing the petition, whether or not it is for the best interest of the zone and the territory that the territory be annexed to the zone. The board may modify the boundaries of the territory proposed to be annexed as stated in the petition by decreasing the area of the territory. If the board determines that it is for the best interest of the zone and of the territory proposed to be annexed that the territory be annexed, the board shall make an order describing the boundaries of the territory proposed to be annexed and shall alter the boundaries of the zone and annex to it the territory described in the petition, and the territory is then a part of the zone.

(d) No petition or request for annexation by any of the above-mentioned methods shall be accepted by the board if a zone annexation petition involving any of the same territory is pending before it for annexation to the same zone.

(e) An order for annexation may be by ordinance or resolution. Whenever any new territory is annexed to a zone, the territory thereupon becomes subject to all the liabilities and entitled to all the benefits of the zone. Any order for annexation may provide for or be made subject to the payment of a fixed or determinable amount of money for the acquisition, transfer, use, or right of use of all or any part of the existing property, real or personal, of the zone. The board may provide that payment of all such amounts shall be either: (1) in lump sums: or (2) in semiannual installments with interest thereon at a rate not to exceed 12 percent over a period not to exceed 10 years beginning on July 1 following the next succeeding March 1, and, in such event, the board shall provide in such ordinance that the total of each such sum to be paid by each parcel shall constitute a lien on such parcel as of noon on the next succeeding March 1, the same as the lien for general district and zone taxes; that such semiannual installments shall be paid and collected at the same time and in the same manner and by the same persons as, and together with and not separately from, general district and zone taxes and shall be delinquent at the same time and thereafter subject to the same delinquency penalties; and that all laws applicable to the levy, collection and enforcement of general district and zone taxes, including, but not limited to, those pertaining to delinquency, correction, cancellation, refund and redemption shall be applicable to such installments.

(f) Notwithstanding any other provision of this section, noncontiguous territory may not be annexed to either Zone 2 or

Zone 2A.

CHAPTER 1035

An act to add Section 61601.95 to the Government Code, and to amend Sections 16, 50, and 51 of the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969), relating to local agencies.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 61601.95 is added to the Government Code, to read:

61601.95. (a) Notwithstanding Sections 61600 and 61601, whenever the Board of Directors of the Lake Arrowhead Community Services District determines, by resolution, that it is feasible, economically sound, and in the public interest for the district to acquire, construct, and operate facilities for the collection, treatment, and disposal of sewage and waste water of inhabitants outside its boundaries, the board shall adopt those additional purposes by resolution entered in the minutes, and the powers of the district may be exercised therefor if the electors of the district approve. In no event shall the district provide sewer services to inhabitants outside of its district boundaries if the inhabitants are included within another public agency currently providing sewer services, unless that public agency consents to the sewer services by resolution or ordinance. 'Public agency," as used in this section, includes a city, county, district, municipal or public corporation, or any other political subdivision of the state, but shall not include a public utility subject to the jurisdiction, control, and regulation of the Public Utilities Commission.

(b) The Lake Arrowhead Community Services District may not proceed with an election to approve the provision of those additional purposes specified in subdivision (a), unless the provision of the additional purposes is approved by the local agency formation commission. A proposal for the provision of the services specified in subdivision (a) shall be made by the adoption of a resolution of application by the district board and filed with the executive officer of the local agency formation commission. Upon the filing of a resolution of application, the executive officer shall set the matter for hearing by the commission and give notice thereof in the manner provided by Part 4 (commencing with Section 56250) of Division 1 of Title 6.

SEC. 2. The Legislature finds and declares that the Lake Arrowhead Community Services district has a special need for the

power to provide for the collection, treatment, and disposal of sewage and waste water of inhabitants outside its boundaries, as set forth in Section 2.5 of this act, in order to insure that these services are available to those inhabitants. The Legislature further finds and declares that this problem is not common to all districts formed under the Community Services District Law. It is, therefore, hereby declared that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and that the enactment of Section 61601.95 of the Government Code as a special law is necessary for the solution of problems existing with respect to the Lake Arrowhead Community Services District.

SEC. 3. Section 16 of the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969) is amended to read:

Sec. 16. All powers, privileges and duties vested in or imposed upon the Bighorn Mountains Water Agency incorporated hereunder shall be exercised and performed by and through the board of directors; provided, however, that the exercise of any and all executive, administrative and ministerial powers may be by said board of directors delegated and redelegated to any of the officers created hereby and by the board of directors acting hereunder.

The board of directors shall have the power:

(1) To fix the time and place or places at which its regular meetings shall be held, and shall provide for the calling and holding of special meetings.

(2) To fix the location of the principal place of business of the agency and the location of all offices and departments maintained hereunder.

(3) To prescribe by ordinance a system of business administration and to create any and all necessary offices and to establish and reestablish the powers and duties and compensation of all officers and employees and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the agency.

(4) To prescribe by ordinance a system of civil service.

(5) To delegate and redelegate by ordinance to officers of the agency power to employ clerical, legal, and engineering assistants and labor, and under such conditions and restrictions as shall be fixed by the directors, power to bind the agency by contract.

(6) To prescribe a method of auditing and allowing or rejecting claims and demands.

(7) Any improvement or unit of work, when the cost according to the estimate of the engineer will exceed twenty-five thousand dollars ($25,000), shall be done by contract and shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three (3) insertions in a daily newspaper of general circulation or by two (2) insertions in a weekly newspaper of general circulation printed and published in the agency, if there is a newspaper printed and published in the agency,

inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids and readvertise, or by a two-thirds vote may elect to undertake such work by force account. In the event no proposals are received, or the estimated cost of the work does not exceed twenty-five thousand dollars ($25,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may have the work done by force account without advertising for bids. The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds twenty-five thousand dollars ($25,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

(8) To fix the rates at which water should be sold, and to establish different rates for different classes or conditions of service; provided, that rates shall be uniform for like classes or conditions of service throughout the agency, but any special water rate fixed in accordance with terms and conditions of annexation, shall be deemed to be a rate for a different class or condition of service.

SEC. 4. Section 50 of the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969) is amended to read:

Sec. 50. The agency, by ordinance, may fix, on or before the first day of July in any calendar year, a water standby or availability charge within the agency or in any improvement district thereof to which water is made available by the agency through underground or by surface facilities, whether the water is actually used or not. The standby charge shall not exceed ten dollars ($10) per acre per year for each acre of land within the agency or any improvement district thereof or ten dollars ($10) per year for any parcel of less than one acre. The ordinance fixing a standby charge shall be adopted by the board only after adoption of a resolution setting forth the particular schedule or schedules of charges proposed to be established by ordinance and after notice and hearing in the manner prescribed in the District Reorganization Act of 1965 (commencing with Section 56000 of the Government Code), except that no notice or hearing shall be required in any year in which there is no increase in the schedule or schedules of charges levied during the previous year,

provided that the current schedule or schedules of charges levied are posted in a prominent place easily accessible to public view in the offices of the agency. The ordinance fixing a standby charge may establish schedules varying the charges according to land uses, water uses, and degree of water availability. On or before the third Monday in August, the board shall furnish in writing to the board of supervisors and the county auditor of each affected county a description of each parcel of land within the agency upon which a charge is to be levied and collected for the current fiscal year, together with the amount of standby charge fixed by the district on each parcel of land. The board shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes, the board of supervisors shall levy, in addition to any other tax it levies, a standby charge in the amounts for the respective parcels fixed by the board. All county officers charged with the duty of collecting taxes shall collect agency standby charges with the regular tax payments to the county. Such charges shall be collected in the same form and manner as county taxes are collected and shall be paid to the agency. Charges fixed by the agency shall be a lien on all the property benefited thereby. Liens for such charges shall be of the same force and effect as other liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for state and county taxes.

SEC. 5. Section 51 of the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969) is amended to read:

Sec. 51. The agency may issue negotiable promissory notes pursuant to this section, bearing interest at a rate not to exceed the rate specified in Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, for the purpose of acquiring funds to finance the construction or acquisition of administrative offices, construction headquarters, commercial offices, or facilities for similar agency purposes and for the acquisition of land for agency purposes. The maturity of such promissory notes shall not be later than 10 years from the date thereof. The total aggregate amount of such notes outstanding at any one time may be at least equal to one hundred thousand dollars ($100,000), but shall not exceed the lesser of either five hundred thousand dollars ($500,000) or 1 percent of the assessed valuation of the taxable property in the agency or, if the assessed valuation is not obtainable, 1 percent of the county auditor's estimate of the assessed valuation of the taxable property in the agency evidenced by his certificate. Promissory notes issued pursuant to subdivision 11 of Section 15 may be disregarded in computing the aggregate amount of notes that may be issued pursuant to this section.

CHAPTER 1036

An act to amend Sections 99268.5 and 99314.5 of, and to add and repeal Section 99270.2 of, the Public Utilities Code, relating to transportation.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 99268.5 of the Public Utilities Code is amended to read:

99268.5. (a) Commencing with claims for the 1980–81 fiscal year, no funds shall be allocated under this article in any fiscal year to an operator providing services using vehicles for the exclusive use of elderly and handicapped persons, unless the operator maintains, for the fiscal year, a ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, for such services at least equal to one-tenth or to the ratio it had for such services during the 1978–79 fiscal year, whichever is greater.

(b) Notwithstanding subdivision (a), an operator which provides both exclusive transportation services for elderly and handicapped persons and regular scheduled public transportation services may be allocated funds under this article for the exclusive service if the combined services qualify under Section 99268.1, 99268.2, 99268.3, or 99268.4, as the case may be, and the ratio of fare revenues to operating cost for the combined service shall not be less than the ratio required in order to make allocations to the operator for its regular scheduled services.

(c) In a county which had less that 500,000 population as determined by the 1970 federal decennial census and greater than 500,000 in population as determined by the 1980 federal decennial census, an operator in the county shall maintain a rate of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, at least equal to one-fifth if serving an urbanized area or one-tenth if serving a nonurbanized area.

SEC. 2. Section 99270.2 is added to the Public Utilities Code, to read:

99270.2. If an operator serves an area that was first designated as an urbanized area in the 1980 federal decennial census, the transportation planning agency may grant the operator time, but not after July 1, 1985, to meet the ratio of fare revenues to operating cost required of an operator serving an urbanized area.

This section 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 that date.

SEC. 3. Section 99314.5 of the Public Utilities Code, as added by Chapter 322 of the Statutes of 1982, is amended to read:

99314.5. (a) No funds allocated pursuant to Section 99313.3 or 99314.3 shall be allocated to an operator unless (1) it is eligible for allocations under Article 4 (commencing with Section 99260), without considering any funds to be allocated to it pursuant to those sections, and (2) it is receiving the maximum allocation allowable under that article or it is in a county in which funds may be allocated for purposes specified in Section 99400.

(b) No funds allocated pursuant to Section 99313.3 shall be allocated to a city or county for purposes specified in subdivisions (b) and (c) of Section 99400 unless it is eligible for allocations under Article 8 (commencing with Section 99400) for those purposes, without considering any funds to be allocated to it pursuant to that section.

(c) The funds may be allocated to an operator for its operating cost only if the operator is not precluded, by any contract entered into on or after June 28, 1979, from employing part-time drivers or contracting with common carriers of persons operating under a franchise or license and if the operator is in compliance with Section 99268.1, 99268.2, 99268.3, 99268.4, 99268.5, or 99268.9, whichever is applicable to it. No person who was a full-time employee of an operator on June 28, 1979, shall have his or her employment terminated or his or her regular hours of employment, excluding overtime, reduced by the operator as a result of it employing part-time drivers or contracting with those common carriers.

(d) It is the intent of the Legislature that, in allocating the funds, the transportation planning agencies and the county transportation commissions, and the San Diego Metropolitan Transit Development Board, give priority consideration to claims to offset reductions in federal operating assistance and the unanticipated increase in the cost of fuel, to enhance existing public transportation services, and to meet high-priority regional, countywide, or areawide public transportation needs.

CHAPTER 1037

An act to amend Sections 5302, 5304, and 5311 of the Unemployment Insurance Code, and to amend Sections 11270, 11308, 11310, 11335, 11336, and 11338 of, and to repeal Section 11338.5 of, the Welfare and Institutions Code, relating to the public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 14, 1982.]

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

SECTION 1. Section 5302 of the Unemployment Insurance Code is amended to read:

5302. (a) Whenever a registrant fails or refuses to appear for appraisal, or a certified registrant fails or refuses to accept employment or to otherwise participate in a work incentive or employment preparation program, the department shall determine whether the individual had good cause for such failure or refusal.

(b) The department shall exhaust efforts toward conciliatory resolution of disputes before it issues a notice of intended deregistration. The purpose of this effort is to encourage the participant to continue in the Work Incentive Program or the Employment Preparation Program. The conciliatory effort shall begin no later than 10 days following the date of failure or refusal to participate as determined under subdivision (a). The conciliation effort may continue for a period not to exceed 30 days. However, either the department or the registrant, upon written request, may terminate this period sooner when either believes that conciliation will not resolve the dispute. The department shall advise the registrant of the right to terminate the conciliation effort and, when necessary, assist the registrant in preparing a written request to do so.

SEC. 2. Section 5304 of the Unemployment Insurance Code is amended to read:

5304. (a) If the department determines that a registrant without good cause failed or refused to appear for appraisal, or a certified registrant without good cause fails or refuses to accept employment or to otherwise participate in a work incentive or employment preparation program and the conciliation period specified in Section 5302 has ended, it shall mail to the registrant a notice of intended deregistration within two working days after the end of the conciliation period.

(b) The notice shall include:

(1) A detailed explanation of the reason for the action and the consequence of refusal or failure to cooperate without good cause.

(2) Notification of the registrant's right to a hearing if the registrant believes that the proposed action is incorrect and the registrant files a written request for a hearing as prescribed in Section 5305.

(3) Notice that the proposed action shall be implemented if a hearing request is not received within the prescribed time.

(4) Instructions and required forms for requesting a hearing.

(5) An offer to assist with preparation of the hearing request.

(6) Notice that the registrant may be represented at the hearing by counsel or other authorized representative appointed by the registrant, and that the registrant and his or her representative, if any, shall have the opportunity to confront and cross-examine opposing witnesses.

(7) Notice that the registrant shall be permitted to present material evidence and testimony at the hearing that is not already

in the record.

(c) The requirements of this section do not apply to an individual who:

(1) Has successfully entered employment and is regularly employed; or

(2) Is deregistered as exempt; or

(3) Is deregistered as a result of becoming ineligible for welfare.

SEC. 3. Section 5311 of the Unemployment Insurance Code is amended to read:

5311. Benefits under this division shall cease on the fifth business day after any of the following events:

(a) The expiration of the prescribed time period for filing a request for a hearing on a proposed deregistration from WIN, or the date on which the request for such hearing is dismissed.

(b) The date of the hearing officer's decision that the disputant has refused or failed to appear for appraisal, to accept employment, or otherwise participate in the WIN program without good cause.

(c) A decision rendered by appeals board or the National Review Panel which reverses a decision favorable to a WIN registrant.

SEC. 4. Section 11270 of the Welfare and Institutions Code is amended to read:

11270. Applicants for and recipients of Aid to Families with Dependent Children who are not exempt from registration under Section 11310 and who are apparently eligible for unemployment insurance shall, as a condition of eligibility, apply for, meet all the conditions of eligibility for, and accept any unemployment insurance benefits for which the Employment Development Department determines they are eligible. Upon determination that individuals registered under Section 11310 have failed to meet all the conditions of eligibility for unemployment insurance, the county shall make a good cause determination under standards established by the department. These standards shall be the same as those which govern the Work Incentive Program. Applicants and recipients who are exempt from work registration under Section 11310 and who are apparently eligible for unemployment insurance benefits shall, as a condition of eligibility, apply for and accept any unemployment insurance benefits for which the Employment Development Department determines they are eligible. The department shall establish by regulations the standards to determine apparent eligibility for unemployment insurance.

SEC. 5. Section 11308 of the Welfare and Institutions Code, as amended by Chapter 3 of the 1981–82 First Extraordinary Session, is amended to read:

11308. (a) Upon notification by the Employment Development Department that, pursuant to Chapter 4 (commencing with Section 5300) of Division 2 of the Unemployment Insurance Code, an individual registered pursuant to Section 11310 has been found to have failed or refused to appear for appraisal, to accept employment, or to otherwise participate in a work incentive program, the county

department shall apply the following sanctions:

(1) For the first such occurrence, the individual shall be deregistered for three payment-months.

(2) For the second and each subsequent occurrence, the individual shall be deregistered for six payment-months.

(b) During the sanction period specified in subdivision (a), the following sanctions shall also apply:

(1) If such individual is a caretaker relative receiving aid under this chapter, his or her needs shall not be taken into account in determining the family's need for assistance, and assistance in the form of protective or vendor payments shall be provided to the remaining members of the assistance unit. Under such circumstances, the caretaker relative may not be the protective payee.

(2) If the parent who is the principal wage earner makes such refusal, assistance to the family shall be denied.

(3) If such individual is the only dependent child in the family, assistance for the family shall be denied.

(4) If such individual is one of several dependent children in the family, assistance for such child shall be denied and his or her needs shall not be taken into account in determining the family's need for assistance.

(c) If an individual is a volunteer registrant and a recipient of aid under this chapter and has failed or refused to participate in the work incentive program without good cause, the sanctions specified in subdivision (a) shall apply, but the sanctions specified in subdivision (b) shall not apply.

(d) For the purposes of this section, the term "principal wage earner" shall be defined as the parent who earns the greatest amount of income during the 2-year period immediately preceding application for benefits.

(e) The sanctions provided by this section shall become effective on the first day of the first payment-month that the sanctioned individual's needs are removed from aid under this chapter.

(f) In the event the provisions of this section conflict with federal law, the department shall adopt regulations to conform state regulations to federal law.

SEC. 6. Section 11310 of the Welfare and Institutions Code is amended to read:

11310. (a) Except for individuals provided for in Section 11251 and as provided in subdivision (b), every individual, as a condition for eligibility for aid under this chapter, shall register and remain so registered with the Employment Development Department for manpower services, training, and employment.

(b) The following individuals are not required to register with the Employment Development Department:

(1) An individual under 16.

(2) A child attending school full time. For purposes of this subdivision, school does not include postsecondary education.

(3) An individual who is ill, incapacitated or of advanced age.

(4) An individual so remote from a work incentive project that his or her effective participation is precluded.

(5) An individual whose presence in the home is required because of illness or incapacity of another member of the household.

(6) A parent with primary responsibility for the care of a child under the age of six or other relative who is caring for such child if the parent or adult relative is providing care with only brief or infrequent absences from the child.

(7) A parent or other relative who is caring for a child if the other parent or another adult relative meets all of the following requirements:

(A) The other parent or adult relative is in the home.

(B) He or she is not excluded by paragraph (1), (2), (3), (4), or (5) of this subdivision.

(C) He or she has not failed to register as required by this section or has not been found pursuant to Chapter 4 (commencing with Section 5300) of Division 2 of the Unemployment Insurance Code to have refused without good cause to participate under a work incentive program or to accept employment, to the extent not in conflict with federal law.

(8) An individual who is working not less than 30 hours per week in unsubsidized employment which is expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment which is expected to last no longer than 10 working days.

(c) Any individual not required to register with the Employment Development Department may choose to register voluntarily for manpower services, training, and employment, and may withdraw such registration at any time without loss of eligibility for aid under this chapter, if his or her status has not changed in a way which would require registration.

SEC. 7. Section 11335 of the Welfare and Institutions Code is amended to read:

11335. The unemployed parent in a family which qualifies for assistance under paragraph (2) of subdivision (a) of Section 11201 shall be provided job search assistance, employment services, training, and other supportive services as specified for the Employment Preparation Program pursuant to Article 3.5 (commencing with Section 11325) in those sites where the Employment Preparation Program is implemented.

The State Department of Social Services shall enter into an interagency agreement with the Employment Development Department for the provision of these services so long as funding under Section 11250.5 is available for these services. The interagency agreement shall be annually submitted to the Joint Legislative Budget Committee.

SEC. 8. Section 11336 of the Welfare and Institutions Code is amended to read:

11336. The Employment Development Department, with the cooperation of the State Department of Social Services, shall develop pilot projects for the employment or on-the-job training for unemployed parents qualified for aid under paragraph (2) of subdivision (a) of Section 11201. Notwithstanding any other provision of law, the pilot projects shall demonstrate the effectiveness of utilizing a portion or all of the aid payment to create employment or training slots for the unemployed parent. Aid payments shall not be paid to the family during their participation in the project, but shall be paid to the employer to offset the cost of wages provided to the parent. Eligibility for such employment and training provided under this section shall be limited to unemployed parents who actively participated in job search assistance provided by the Employment Development Department and were unable to locate employment and shall continue until completion of such employment or training so long as the participant qualified for aid under paragraph (2) of subdivision (a) of Section 11201 at the time of enrollment. Under no circumstance, however, shall the period of eligibility for work or training under this section exceed six consecutive months.

SEC. 9. Section 11338 of the Welfare and Institutions Code is amended to read:

11338. The Employment Development Department with the cooperation of the Department of Social Services shall report to the Legislative Analyst by April 1 of each year detailing the performance and status of the programs provided for under this article. The annual report shall meet the requirement of Section 5202 of the Unemployment Insurance Code. The Legislative Analyst shall critique the report submitted to him by the department and shall submit his findings to the Legislature on or before May 1 of each year. Commencing with 1983, the report shall include the best available information on the program's impact on the public assistance costs.

SEC. 10. Section 11338.5 of the Welfare and Institutions Code is repealed.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to comply with federal law and implement provisions of state legislation relating to the Aid to Families with Dependent Children program, it is necessary that this act go into immediate effect.

CHAPTER 1038

An act to amend Section 1373.6 of the Health and Safety Code, to amend Sections 12678, 12679 and 12686 of the Insurance Code, relating to health insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 1373.6 of the Health and Safety Code is amended to read:

1373.6. (a) Except in the case of a specialized health care service plan contract, every group contract entered into, amended or renewed on or after January 1, 1983, that provides hospital, medical or surgical expense benefits for employees or members shall provide that an employee or member whose coverage under the group contract has been terminated by the employer shall be entitled to convert to nongroup membership, without evidence of insurability, subject to the terms and conditions of this section.

(b) A conversion contract shall not be required to be made available to an employee or member if termination of his or her coverage under the group contract occurred for any of the following reasons:

(1) The group contract terminated or an employer's participation terminated;

(2) The employee or member failed to pay amounts due the health care service plan;

(3) The employee or member was terminated by the health care service plan from the plan for good cause;

(4) The employee or member knowingly furnished incorrect information or otherwise improperly obtained the benefits of the plan.

(5) The employer's hospital, medical or surgical expense benefit program is self-insured.

(c) A conversion contract is not required to be issued to any person if any of the following facts are present:

(1) Such person is covered by or is eligible for benefits under Title XVIII of the United States Social Security Act.

(2) Such person is covered by or is eligible for hospital, medical or surgical benefits under state or federal law.

(3) Such person is covered by or is eligible for hospital, medical or surgical benefits under any arrangement of coverage for individuals in a group, whether insured or self-insured.

(d) Benefits of a conversion contract shall meet the requirements for benefits under this chapter.

(e) Unless waived in writing by the plan, written application and

first premium payment for the conversion contract shall be made not later than 30 days after termination from the group.

(f) The conversion contract shall cover the employee or member and his or her dependents who were covered under the group contract on the date of their termination from the group.

(g) A notification of the availability of the conversion coverage shall be included in each evidence of coverage; provided, however, that it shall be the sole responsibility of the employer to notify its employees of the availability, terms and conditions of such conversion coverage which responsibility shall be satisfied by notification within 30 days of termination of group coverage excluding any period during which there is any continuation or extension of the group coverage. For purposes of this subdivision, the employer shall not be deemed the agent of the plan for purposes of notification of the availability, terms and conditions of conversion coverage.

(h) As used in this section, "hospital, medical or surgical benefits under state or federal law" do not include benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, or Title XIX of the United States Social Security Act.

SEC. 2. Section 1373.6 of the Health and Safety Code is amended to read:

1373.6. (a) Except in the case of a specialized health care service plan contract, every group contract entered into, amended or renewed on or after January 1, 1983, that provides hospital, medical or surgical expense benefits for employees or members shall provide that an employee or member whose coverage under the group contract has been terminated by the employer shall be entitled to convert to nongroup membership, without evidence of insurability, subject to the terms and conditions of this section.

(b) A conversion contract shall not be required to be made available to an employee or member if termination of his or her coverage under the group contract occurred for any of the following reasons:

(1) The group contract terminated or an employer's participation terminated;

(2) The employee or member failed to pay amounts due the health care service plan;

(3) The employee or member was terminated by the health care service plan from the plan for good cause;

(4) The employee or member knowingly furnished incorrect information or otherwise improperly obtained the benefits of the plan.

(5) The employer's hospital, medical or surgical expense benefit program is self-insured.

(c) A conversion contract is not required to be issued to any person if any of the following facts are present:

(1) Such person is covered by or is eligible for benefits under Title

XVIII of the United States Social Security Act.

(2) Such person is covered by or is eligible for hospital, medical or surgical benefits under state or federal law.

(3) Such person is covered by or is eligible for hospital, medical or surgical benefits under any arrangement of coverage for individuals in a group, whether insured or self-insured.

(4) Such person is covered for similar benefits by an individual policy or contract.

(5) Such person has not been continuously covered during the three-month period immediately preceding that person's termination of coverage.

(d) Benefits of a conversion contract shall meet the requirements for benefits under this chapter.

(e) Unless waived in writing by the plan, written application and first premium payment for the conversion contract shall be made not later than 30 days after termination from the group.

(f) The conversion contract shall cover the employee or member and his or her dependents who were covered under the group contract on the date of their termination from the group.

(g) A notification of the availability of the conversion coverage shall be included in each evidence of coverage; provided, however, that it shall be the sole responsibility of the employer to notify its employees of the availability, terms and conditions of such conversion coverage which responsibility shall be satisfied by notification within 30 days of termination of group coverage excluding any period during which there is any continuation or extension of the group coverage. For purposes of this subdivision, the employer shall not be deemed the agent of the plan for purposes of notification of the availability, terms and conditions of conversion coverage.

(h) As used in this section, "hospital, medical or surgical benefits under state or federal law" do not include benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, or Title XIX of the United States Social Security Act.

SEC. 3. Section 12678 of the Insurance Code is amended to read:

12678. The insurer shall not be required to issue a converted policy covering any person if any of the following exists:

(a) Such person is covered or is eligible to be covered for similar benefits by another group policy.

(b) Such person is covered or is eligible to be covered for similar benefits under any arrangement of coverage for persons in a group whether insured or uninsured.

(c) Similar benefits are provided for or are available to such person, by reason of any state or federal law. As used in this section, "state or federal law" does not include 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, or Title XIX of the United States Social Security Act.

SEC. 3.5. Section 12678 of the Insurance Code is amended to read:

12678. The insurer shall not be required to issue a converted policy covering any person if any of the following exists:

(a) Such person is covered for similar benefits by another individual policy.

(b) Such person is covered or is eligible to be covered for similar benefits by another group policy.

(c) Such person is covered or is eligible to be covered for similar benefits under any arrangement of coverage for persons in a group whether insured or uninsured.

(d) Similar benefits are provided for or are available to such person, by reason of any state or federal law. As used in this section, "state or federal law" does not include 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, or Title XIX of the United States Social Security Act.

SEC. 4. Section 12679 of the Insurance Code is amended to read:

12679. A converted policy may provide that the insurer may at any time request information from any person covered thereunder as to whether he or she is covered for the similar benefits described in Section 12678. The converted policy shall provide that as of any premium due date the insurer may refuse to renew the policy or the coverage of any insured person for the following reasons only:

(a) Failure of the individual covered by the converted policy to provide the requested information.

(b) Fraud or material misrepresentation by the individual covered by the converted policy in applying for any benefits under the converted policy.

(c) Eligibility of the individual covered by the converted policy for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy. As used in this section, "state or federal law" does not include 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, or Title XIX of the United States Social Security Act.

(d) Nonpayment of premium.

(e) Eligibility of the individual covered by the converted policy for coverage under any group policy.

(f) Other reasons approved by the Insurance Commissioner.

SEC. 4.5. Section 12679 of the Insurance Code is amended to read:

12679. A converted policy may provide that the insurer may at any time request information from any person covered thereunder as to whether he or she is covered for the similar benefits described in Section 12678. The converted policy shall provide that as of any premium due date the insurer may refuse to renew the policy or the coverage of any insured person for the following reasons only:

(a) Failure of the individual covered by the converted policy to provide the requested information.

(b) Fraud or material misrepresentation by the individual covered by the converted policy in applying for any benefits under the converted policy.

(c) Eligibility of the individual covered by the converted policy for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy. As used in this section, "state or federal law" does not include 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, or Title XIX of the United States Social Security Act.

(d) Nonpayment of premium.

(e) Coverage of the individual for similar benefits under another individual policy.

(f) Eligibility of the individual covered by the converted policy for coverage under any arrangement for coverage for persons in a group whether insured or uninsured.

(g) Other reasons approved by the Insurance Commissioner.

SEC. 5. Section 12686 of the Insurance Code is amended to read:

12686. (a) In the event coverage would be continued under a group policy on an employee following his or her retirement prior to the time he or she is or could be covered by Medicare, the employee or member may elect to have the same conversion rights as would apply had that coverage terminated at retirement.

(b) The converted policy may provide for reduction or termination of coverage of any person upon his or her eligibility for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy. As used in this section, "state or federal law" does not include 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, or Title XIX of the United States Social Security Act.

(c) Subject to the conditions set forth herein, the conversion coverage shall also be available to:

(1) A covered dependent spouse and such children whose coverage terminates under the group policy by reason of the death of the employee or member, or a covered dependent spouse in the event such person ceases to be a qualified family member by reason of the termination of the marriage.

(2) A child, solely with respect to himself or herself, whose coverage terminates because the child ceases to be a qualified family member under the group policy.

(d) If the benefit levels required in Section 12683 or Section 12684 exceed the benefit levels provided under the group policy, the converted policy may offer benefits which are substantially similar to those provided under the group policy in lieu of those required in

Section 12683 or Section 12684.

(e) The insurer may elect to provide conversion coverage through a group insurance policy issued for that purpose in lieu of an individual policy.

(f) An insurer required by this part to provide conversion coverage may provide such coverage through one or more other insurers authorized to provide disability insurance coverage in this state.

SEC. 5.5. Section 12686 of the Insurance Code is amended to read:

12686. (a) In the event coverage would be continued under a group policy on an employee or member following his or her retirement prior to the time he or she is or could be covered by Medicare, the employee or member may elect, in lieu of the continuation of group insurance, to have the same conversion rights as would apply had that coverage terminated at retirement by reason of termination of employment or membership.

(b) The converted policy may provide for reduction or termination of coverage of any person upon his or her eligibility for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy. As used in this section, "state or federal law" does not include 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, or Title XIX of the United States Social Security Act.

(c) Subject to the conditions set forth herein, the conversion coverage shall also be available to:

(1) A covered dependent spouse and such children whose coverage terminates under the group policy by reason of the death of the employee or member, or a covered dependent spouse in the event such person ceases to be a qualified family member by reason of the termination of the marriage.

(2) A child, solely with respect to himself or herself, whose coverage terminates because the child ceases to be a qualified family member under the group policy.

(d) If the benefit levels required in Section 12683 or Section 12684 exceed the benefit levels provided under the group policy, the converted policy may offer benefits which are substantially similar to those provided under the group policy in lieu of those required in Section 12683 or Section 12684.

(e) The insurer may elect to provide conversion coverage through a group insurance policy issued for that purpose in lieu of an individual policy.

(f) An insurer required by this part to provide conversion coverage may provide such coverage through one or more other insurers authorized to provide disability insurance coverage in this state.

SEC. 5.6. It is the intent of the Legislature, if this bill and Senate

Bill 1486 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 1373.6 of the Health and Safety Code, and this bill is chaptered after Senate Bill 1486, that Section 1373.6 of the Health and Safety Code, as amended by Section 1 of this act, shall remain operative until the effective date of Senate Bill 1486, and that on the effective date of Senate Bill 1486, Section 1373.6 of the Health and Safety Code, as amended by Section 1 of this act, be further amended in the form set forth in Section 2 of this act to incorporate the changes in Section 1373.6 proposed by Senate Bill 1486. Therefore, if this bill and Senate Bill 1486 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 1486 is chaptered before this bill and amends Section 1373.6, Section 2 of this act shall become operative on the effective date of Senate Bill 1486.

SEC. 5.7. It is the intent of the Legislature, if this bill and Senate Bill 1486 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 12678 of the Insurance Code, and this bill is chaptered after Senate Bill 1486, that Section 12678 of the Insurance Code, as amended by Section 3 of this act, shall remain operative until the effective date of Senate Bill 1486, and that on the effective date of Senate Bill 1486, Section 12678 of the Insurance Code, as amended by Section 3 of this act, be further amended in the form set forth in Section 3.5 of this act to incorporate the changes in Section 12678 proposed by Senate Bill 1486. Therefore, if this bill and Senate Bill 1486 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 1486 is chaptered before this bill and amends Section 12678, Section 3.5 of this act shall become operative on the effective date of Senate Bill 1486.

SEC. 5.8. It is the intent of the Legislature, if this bill and Senate Bill 1486 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 12679 of the Insurance Code, and this bill is chaptered after Senate Bill 1486, that Section 12679 of the Insurance Code, as amended by Section 4 of this act, shall remain operative until the effective date of Senate Bill 1486, and that on the effective date of Senate Bill 1486, Section 12679 of the Insurance Code, as amended by Section 4 of this act, be further amended in the form set forth in Section 4.5 of this act to incorporate the changes in Section 12679 proposed by Senate Bill 1486. Therefore, if this bill and Senate Bill 1486 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 1486 is chaptered before this bill and amends Section 12679, Section 4.5 of this act shall become operative on the effective date of Senate Bill 1486.

SEC. 5.9. It is the intent of the Legislature, if this bill and Senate Bill 1486 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 12686 of the Insurance Code, and this bill is chaptered after Senate Bill 1486, that Section 12686 of the Insurance Code, as amended by Section 5 of this act, shall

remain operative until the effective date of Senate Bill 1486, and that on the effective date of Senate Bill 1486, Section 12686 of the Insurance Code, as amended by Section 5 of this act, be further amended in the form set forth in Section 5.5 of this act to incorporate the changes in Section 12686 proposed by Senate Bill 1486. Therefore, if this bill and Senate Bill 1486 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 1486 is chaptered before this bill and amends Section 12686, Section 5.5 of this act shall become operative on the effective date of Senate Bill 1486.

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 to avoid potential conflicts between Chapter 1096 of the Statutes of 1981 and federal law, it is necessary that this act take effect immediately.

CHAPTER 1039

An act to add Section 8961.12 to the Health and Safety Code, relating to cemeteries.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 8961.12 is added to the Health and Safety Code, to read:

8961.12. Notwithstanding Sections 8961 and 8961.1, the Oroville Cemetery District may use its facility on Feather River Boulevard, north of Oro Dam Boulevard, for up to a total of 100 interments, for the burial within the ground of any deceased nonresident of the district, upon the prior request of the deceased or a representative of the deceased person, if all of the following conditions are met:

(a) The trustees determine that the cemetery has adequate space for the foreseeable future.

(b) The district has established an endowment care fund which requires at least the minimum deposit set forth in Section 8738.

(c) The district requires the payment of a nonresident fee established pursuant to Section 8894.

SEC. 2. Due to the unique circumstances concerning the burial needs of the residents of Butte County, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

CHAPTER 1040

An act to amend Section 2484 of the Business and Professions Code, and to amend Section 411.30 of the Code of Civil Procedure, relating to podiatrists.

[Approved by Governor September 13, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 2484 of the Business and Professions Code is amended to read:

2484. On and after January 1, 1983, in addition to any other requirements of this chapter, before a certificate to practice podiatric medicine may be issued, each applicant shall show by evidence satisfactory to the committee that he or she has satisfactorily completed one year of approved postgraduate podiatric surgical training in a general acute care facility. If an approved postgraduate podiatric surgical training residency was not available nationally for the applicant, a one-year preceptorship approved by the committee may be substituted until January 1, 1986.

SEC. 2. Section 411.30 of the Code of Civil Procedure is amended to read:

411.30. (a) In any action for damages arising out of the professional negligence of a person holding a valid physician's and surgeon's certificate issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or of a person holding a valid dentist's license issued pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, or of a person holding a valid podiatrist's certificate issued pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code on or before the date of service of the complaint on any defendant, the plaintiff's attorney shall file the certificate specified in subdivision (b).

(b) A certificate shall be executed by the attorney for the plaintiff declaring one of the following:

(1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one physician and surgeon, dentist, or podiatrist who is licensed to practice and practices in this state or any other state or teaches at an accredited college or university and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action, and that the attorney has concluded on the basis of such review and consultation that there is reasonable and meritorious cause for the filing of such action.

(2) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations, including

the provisions of Section 581a, would impair the action and that the certificate required by paragraph (1) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificate required by paragraph (1) shall be filed within 60 days after service of the complaint.

(3) That the attorney was unable to obtain the consultation required by paragraph (1) because the attorney had made three separate good faith attempts with three separate physicians and surgeons, dentists, or podiatrists to obtain such consultation and none of those contacted would agree to such a consultation.

(c) Where a certificate is required pursuant to this section, only one such certificate shall be filed notwithstanding that multiple defendants have been named in the complaint or may be named at a later time.

(d) Where the attorney intends to rely solely on the doctrine of "res ipsa loquitur", as defined in Section 646 of the Evidence Code, or exclusively on a failure to inform of the consequences of a procedure, or both, this section shall be inapplicable. The attorney shall certify upon filing of the complaint that the attorney is solely relying on the doctrines of "res ipsa loquitur" or failure to inform of the consequences of a medical procedure or both, and for that reason is not filing a certificate required by this section.

(e) If a request by the plaintiff for the defendant's records has been made pursuant to Section 1158 of the Evidence Code, and if the defendant has failed to produce such records within the time limits specified by that section, the time for filing the certificate of merit shall be extended for the period by which the time for furnishing records set forth in Section 1158 of the Evidence Code is exceeded by the defendant to a maximum of 60 days after which the requirement for the certificate is voided.

(f) For purposes of this section, and subject to Evidence Code Section 912, an attorney who submits a certificate as required by paragraph (1) or (2) of subdivision (b) has a privilege to refuse to disclose the identity of the physician or surgeon, dentist, or podiatrist consulted and the contents of such consultation. Such privilege shall also be held by the physician or surgeon, dentist, or podiatrist so consulted, provided when the attorney makes a claim under paragraph (3) of subdivision (b) that he was unable to obtain the required consultation with the physician and surgeon, dentist, or podiatrist, the court may require the attorney to divulge the names of physicians and surgeons, dentists, or podiatrist refusing such consultation.

(g) A violation of the provisions of this section may constitute unprofessional conduct and be grounds for discipline against the attorney.

(h) The failure to file a certificate required by this section shall be grounds for a demurrer pursuant to Section 430.10.

(i) The provisions of this section shall not be applicable to a plaintiff who is not represented by an attorney.

(j) This section is repealed as of January 1, 1984.

CHAPTER 1041

An act to add and repeal Section 65302.3 of the Government Code, and to amend, repeal, and add Sections 21670, 21671, 21674, and 21676 of, and to add and repeal Section 21678 of, the Public Utilities Code, relating to airports.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 65302.3 is added to the Government Code, to read:

65302.3. (a) The general plan, and any applicable specific plan prepared pursuant to Section 65450, shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.

(b) The general plan, and any applicable specific plan prepared pursuant to Section 65450, shall be amended pursuant to subdivision (a) not later than December 31, 1983, to be consistent with provisions of the plan required under Section 21675 of the Public Utilities Code, as such plan may provide on July 1, 1983.

(c) In the event that the legislative body does not concur with any provision of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

This section shall remain in effect only until January 1, 1984, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends that date.

SEC. 2. Section 65302.3 is added to the Government Code, to read:

65302.3. (a) The general plan, and any applicable specific plan prepared pursuant to Section 65450, shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.

(b) Notwithstanding the provisions of Section 65361, the general plan, and any applicable specific plan, shall be amended within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code.

(c) In the event that the legislative body does not concur with any provision of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

This section shall become operative January 1, 1984, and 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. 3. Section 21670 of the Public Utilities Code is amended to read:

21670. (a) The Legislature hereby finds and declares that:

(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding such airports in such a manner among other things, promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669, and prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that such areas are not already devoted to incompatible uses.

(b) In order to achieve the purposes of this article, there is hereby created, in each county subject to this article and containing at least one airport operated for the benefit of the general public and served by an air carrier certificated by the Civil Aeronautics Board, an airport land use commission, hereinafter referred to as the "commission." Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county; provided, however, that, if there are any cities contiguous or adjacent to the qualifying airport, at least one such representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county; however, one such representative shall be appointed from an airport operated for the benefit of the general public.

(4) One representing the general public, appointed by the other six members of the commission.

(c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(d) Each member shall promptly appoint a single proxy to represent him in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the member who appointed him. A vacancy in the office of proxy shall

be filled promptly by appointment of a new proxy.

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 21670 is added to the Public Utilities Code, to read:

21670. There is hereby created, in each county subject to this article and containing at least one airport operated for the benefit of the general public and served by an air carrier certified by the Public Utilities Commission or the Civil Aeronautics Board, an airport land use commission, hereinafter referred to as the "commission." Each commission shall consist of seven members to be selected as follows:

(a) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county; provided, however, that, if there are any cities contiguous or adjacent to the qualifying airport, at least one such representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by subdivisions (b) and (c) shall each be increased by one.

(b) Two representing the county, appointed by the board of supervisors.

(c) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county; however, one such representative shall be appointed from an airport operated for the benefit of the general public.

(d) One representing the general public, appointed by the other six members of the commission.

Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

Each member shall promptly appoint a single proxy to represent him in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the member who appointed him. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

This section shall become operative January 1, 1989.

SEC. 5. Section 21671 of the Public Utilities Code is amended to read:

21671. In any county where there is an airport operated for the general public, and served by an air carrier certificated by the Civil Aeronautics Board, which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (b) of Section 21670 shall be appointed by the mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by paragraph 2 of subdivision (b) of Section 21670 shall be appointed by

the board of supervisors of the county in which the owner of that airport is located.

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 21671 is added to the Public Utilities Code, to read:

21671. In any county where there is an airport operated for the general public, and served by an air carrier certified by the Public Utilities Commission or the Civil Aeronautics Board, which is owned by a city or district in another county or by another county, one of the representatives provided by subdivision (a) of Section 21670 shall be appointed by the mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by subdivision (b) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

This section shall become operative January 1, 1989.

SEC. 7. Section 21674 of the Public Utilities Code is amended to read:

21674. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

(a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of such airports is not already devoted to incompatible uses.

(b) To coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.

(c) To prepare and adopt an airport land use plan pursuant to Section 21675.

(d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.

(e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.

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. 8. Section 21674 is added to the Public Utilities Code, to read:

21674. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(a) To study conditions and make recommendations concerning the need for height restrictions on buildings near airports;

(b) To make recommendations for the use of the land surrounding airports to assure safety of air navigation and the promotion of air commerce.

(c) To hold public hearings regarding the subject matter in subdivisions (a) and (b) and make findings of fact thereon which would be advisory only to the involved jurisdiction.

(d) To make and enforce rules and regulations for the orderly and fair conduct of such hearings which shall conform as nearly as possible to the provisions applicable to hearings conducted by local agency formation commissions.

(e) To achieve by zoning compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of such airports is not already devoted to incompatible uses, and to this end the commissions shall require that all new construction in such areas shall conform to such standards as the department may from time to time adopt.

The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.

This section shall become operative January 1, 1989.

SEC. 9. Section 21676 of the Public Utilities Code is amended to read:

21676. (a) Each local agency whose general plan includes areas covered by an airport land use commission plan, shall, by July 1, 1983, submit a copy of its plan or specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the commission's plan. If the plan or plans are inconsistent with the commission's plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its plans. The local agency may overrule the commission after such hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(b) Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(c) Each public agency owning any airport within the boundaries of an airport land use commission plan, shall, prior to modification of its airport master plan, refer such proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action

is consistent with the purposes of this article stated in Section 21670.

(d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the commission's plan.

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. 10. Section 21676 is added to the Public Utilities Code, to read:

21676. Each public agency having representation on the commission shall assist in the development of an area plan. All such plans shall be filed with the commission for its approval. If in the determination of the commission, an action or regulation of any public agency within the boundaries of the area plan is inconsistent with the commission plan, then the commission shall hold a hearing to determine whether or not the proposed action is in the best interest of the airport and the adjacent area. If it is determined that the action would be harmful, then the public agency shall be notified and the public agency shall have another hearing to reconsider its action. The public agency proposing the action or regulation, however, may overrule the commission after such hearing by a four-fifths vote of its governing body.

Each public agency owning any airport within the boundaries of the area plan shall file any substantive change in development plans with the commission for its approval. If such plans are inconsistent with the commission plan, then the public agency shall be notified and shall have another hearing to reconsider its action. Such public agency, however, may overrule the commission by a four-fifths vote of its governing body.

This section shall become operative January 1, 1989.

SEC. 11. Section 21678 is added to the Public Utilities Code, to read:

21678. With respect to a publicly owned airport that a public agency does not operate, if such public agency pursuant to Section 21676 overrides a commission's action or recommendation, the operator of such airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to override the commission's action or recommendation.

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. 12. 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 1042

An act to amend Section 41907 of the Education Code, and to amend Sections 12800, 12811, and 13005.3 of the Vehicle Code, relating to motor vehicles.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 41907 of the Education Code is amended to read:

41907. A qualified instructor is one who has passed an approved driver's instruction examination and holds a designated subjects credential or who holds a valid prior credential authorizing instruction in automobile driver education and driver training.

SEC. 2. Section 12800 of the Vehicle Code, as amended by Section 1.5 of Chapter 1102 of the Statutes of 1981, is amended to read:

12800. Every application for a driver's license shall contain the following information:

(a) The applicant's true full name, age, sex, mailing address, and residence address.

(b) A brief description of the applicant for the purpose of identification

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, or whether the applicant has any disease, disorder, or disability which affects ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an

identification card by the department.

(j) Any other information necessary to enable the department to determine whether the applicant is entitled to a license under this code.

SEC. 3. Section 12811 of the Vehicle Code is amended to read:

12811. (a) When the department determines that the applicant is lawfully entitled to a license, it shall issue to the person a driver's license as applied for. The license shall state the class of license for which the licensee has qualified and shall bear thereon the distinguishing number assigned to the applicant, the date of expiration, the name, age, and mailing address of the licensee, a brief description and engraved picture or photograph of the licensee for the purpose of identification, and space for the signature of the licensee.

Each license shall also contain a space for the endorsement thereon of a record of each suspension or revocation thereof.

The department shall use whatever process or processes, in the issuance of engraved or colored licenses, that prohibit, as near as possible, the ability to alter or reproduce the license, or prohibit the ability to superimpose a picture or photograph on the license without ready detection.

(b) With every driver's license issued, the department shall provide a sticker which may be affixed to the back of the license, by which the licensee may indicate his willingness and intent to make an anatomical gift pursuant to subdivision (b) of Section 7154 of the Health and Safety Code. The sticker provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code). To be effective, the statement shall be signed by the licensee in the presence of two witnesses, who shall sign the statement in his or her presence. If the licensee cannot sign, the statement may be signed for the licensee at his or her direction and in his or her presence in the presence of two witnesses who shall sign the statement in his or her presence. The gift shall become effective upon the death of the licensee.

(c) No public entity or employee shall be liable for any loss, detriment, or injury resulting directly or indirectly from false or inaccurate information contained in the sticker provided pursuant to subdivision (b).

(d) No contract shall be let to any nongovernmental entity for the processing of drivers' licenses, unless the department receives two or more qualified bids from independent, responsible bidders.

SEC. 4. Section 13005.3 of the Vehicle Code is amended to read:

13005.3. In addition to the requirements of Section 13005, any identification card issued pursuant to subdivision (b) of Section 13000 shall contain the words "Senior Citizen".

CHAPTER 1043

An act to amend Sections 9801, 9802, 9805, 9807, 9810, 9827, 9830, and 9831 of, and to repeal Section 9806 of, the Unemployment Insurance Code, relating to youth employment.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 9801 of the Unemployment Insurance Code is amended to read:

9801. The Legislature hereby makes the following declaration of purpose and intent in enacting the Youth Employment and Development Act of 1977.

It is the public policy of the State of California to provide for a comprehensive youth services program which will establish a leadership role in the development of local programs for youth employment, to provide legislation enabling the State of California to receive funds available to states through the enactment of the Comprehensive Employment and Training Act of 1973, as amended, and to develop a long-range plan for improving the transition of youth from school to work.

SEC. 2. Section 9802 of the Unemployment Insurance Code is amended to read:

9802. In enacting the Youth Employment and Development Act of 1977, the Legislature further finds and declares that:

(a) In 1980, over 350,000 youth under age 25 were unemployed and comprised approximately half the total unemployed in California.

(b) While the number of California's youth is decreasing in relationship to other age groups, the number of unemployed inner-city youth continues to increase.

(c) Existing youth employment program resources are insufficient in size and scope to reduce unemployment rates for youth.

(d) Structural unemployment problems based on lack of skills and education deficiencies must be addressed through innovative programs combining work experience and education.

(e) Many young people face a life of inadequate income, failure, and loss of respect because of the inability of the economy to absorb them into the work force. The state also faces an enormous loss in human potential and productive capacity as well as accelerating social costs related to crime, poverty and the attendant problems resulting from unemployment.

It is hereby declared to be the intent of the Legislature to establish within the Employment Development Department and the California Conservation Corps the responsibility for youth

employment and development. This responsibility shall be carried out in concert with other state agencies mandated to provide services to youth and in conjunction with prime sponsors as described by Public Law 93-203, the Comprehensive Employment and Training Act of 1973, as amended, or its successor.

SEC. 3. Section 9805 of the Unemployment Insurance Code is amended to read:

9805. The Employment Development Department may conduct the following programs:

(a) Youth on-the-job training programs and work experience in the private sector, such employment to be subsidized on the basis of regulations developed by the department.

(b) Youth service programs providing work experience and opportunities for skill development through employment on projects of positive public benefit that are designed to provide human or community services or to conserve and maintain public recreational and community facilities. These programs may include youth services corps programs in which, notwithstanding the provisions of Section 9811, participating youths may receive lump-sum honorariums instead of wages.

(c) Projects to facilitate the transition of youth from school to work, which may include, but shall not be limited to, the following:

(1) Youth education and work experience voucher payment plans, to test the feasibility of providing youth with more flexibility and freedom in selecting their own courses of instruction and enabling them to negotiate with employers for work experience and training. Such vouchers may be used to compensate an employer for wage costs and may be used for basic subsistence and work-related expenses. Funds from Section 11333 of the Welfare and Institutions Code may be utilized as a voucher payment.

(2) Basic education which an eligible youth receives as a complement to work-experience contracts, to test the feasibility of funding innovative educational components which are linked to the worksite training which the individual receives on the job.

(3) The Employment Development Department, the Department of Education, the Chancellor's office of the Community Colleges, and the Division of Apprenticeship Standards in the Department of Industrial Relations shall cooperate in the development of the innovative demonstration projects described in paragraphs (1) and (2) of this subdivision. Schools involved in these projects may award academic credit to participating youth.

(d) Innovative demonstration projects to provide youths with basic education, training, employment, or other related services for youths who are parents of dependent children under paragraph (2) of subdivision (a) of Section 11201 of the Welfare and Institutions Code, to test the feasibility of reducing the dependency of the parents on public assistance.

(e) Summer youth employment programs, especially those designed to enhance local efforts to encourage private sector hiring

of youth in paid work experience. To the maximum extent possible, these programs shall represent collaborative activities among local communities, businesses and industries, schools, and other local groups, with the state's assistance aimed at enhancing locally designed projects that reflect the participating communities' unique needs, resources, and priorities. In addition, whenever possible, summer youth programs sponsored under this subdivision shall integrate state technical assistance with federal funding provided for employment and training of youth.

SEC. 4. Section 9806 of the Unemployment Insurance Code is repealed.

SEC. 5. Section 9807 of the Unemployment Insurance Code is amended to read:

9807. (a) The department may enter into contractual arrangements with public and private organizations for carrying out projects in furtherance of the programs described in this chapter. The department shall, in awarding such contracts, give priority consideration to projects which address the severity of unemployment among youth of minority backgrounds residing in inner-city neighborhoods. The department shall monitor and evaluate such controls to ensure that terms and conditions are being met.

(b) In the event that suitable contractors are not available, the department shall conduct projects in furtherance of the programs described in this chapter.

SEC. 6. Section 9810 of the Unemployment Insurance Code is amended to read:

9810. Youth eligible for employment under this chapter shall have reached the age of 16, but not age 22, and shall be unemployed at the time of enrollment. Priority in selection for employment shall be given to youth who are experiencing the most severe barriers in obtaining employment or who are unemployed parents qualifying for aid under paragraph (2) of subdivision (a) of Section 11201 of the Welfare and Institutions Code.

SEC. 7. Section 9827 of the Unemployment Insurance Code is amended to read:

9827. The department shall act as recipient of funds available under the Comprehensive Employment and Training Act of 1973, as amended, or its successor, which shall augment funds available from state revenues for the purposes of this chapter, provided, however, that funds available from the federal Young Adult Conservation Corps, which was established pursuant to the federal Youth Employment and Demonstration Projects Act of 1977 (Public Law 95-93), shall be received and administered by the California Conservation Corps.

SEC. 8. Section 9830 of the Unemployment Insurance Code is amended to read:

9830. The department shall report to the Legislature, on or before February 1 of each year, its progress in implementing this

chapter, including the number of persons participating in each type of program authorized by this chapter. The report shall also include information on the nature and extent of youth unemployment in California and on barriers to youth employment, and shall contain recommendations for actions to improve youth employment and training programs and delivery systems.

SEC. 9. Section 9831 of the Unemployment Insurance Code is amended to read:

9831. This chapter shall remain in effect only until December 31, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1987, deletes or extends that date. The Legislative Analyst shall report to the Legislature, no later than January 1, 1987, his recommendations concerning the extension of this chapter beyond December 31, 1987.

This chapter shall be operative only during those fiscal years for which a specific appropriation is made in the Budget Act to carry out the provisions of the chapter.

CHAPTER 1044

An act to amend Section 52321 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 52321 of the Education Code is amended to read:

52321. (a) A regional occupational center or program established and maintained by school districts or joint powers agencies pursuant to Section 52301 shall receive in annual operating funds from each of the participating school districts an amount per unit of average daily attendance equal to the revenue limit received by such districts for each unit of average daily attendance generated in the regional occupational center or program.

A regional occupational center or program established and maintained by a county superintendent of schools pursuant to Section 52301 shall receive funding pursuant to Section 2550. A county superintendent of schools shall report average daily attendance to the Superintendent of Public Instruction for such funding.

(b) Any regional occupational center or program is authorized to budget and accumulate an amount necessary to meet the cash flow needs of the regional occupational center or program known as a general reserve and appropriation for contingencies; or, for regional

occupational centers or programs established and maintained by school districts or joint powers agencies, an amount necessary to meet long-term program needs of the regional occupational center or program known as capital outlay expenditures or equipment replacement. At the end of any given school year, subject to the exception provided in paragraph (2) of subdivision (c), the net ending balance may be distributed to any of the three reserved accounts, provided that the combined total transferred does not exceed 15 percent of the previous year's expenditures.

(1) The general reserve, appropriation for contingencies, and the capital outlay expenditures or equipment replacement reserved account shall be available for appropriation only after approval by a two-thirds vote of the governing body of the regional occupational center or program.

(2) Funds of regional occupational centers or programs established and maintained by school districts or joint powers agencies shall be distributed to the capital outlay expenditures or equipment replacement reserve account only upon adoption by the governing board of a resolution specifying the general use to which each appropriation from the account would be put.

(c) (1) At the end of any given school year the combined net ending balances of the general reserve and appropriation for contingencies reserved account in excess of 15 percent of the previous fiscal year's expenditures shall be returned to the districts participating in the regional occupational center or program in proportion to the district's contribution to the regional occupational center or program. The county superintendent of schools shall reduce the revenue limit of the districts by an amount equal to the excess reserves which are required to be returned to the districts. Net ending balances in excess of 15 percent, except those funds specifically set aside by the board and restricted to capital outlay expenditures or equipment replacement, in county-operated regional occupational centers or programs shall reduce the revenue limit of the county superintendent program by an amount equal to the excess reserves in that program.

(2) A regional occupational center or program established and maintained by school districts or joint powers agencies may accumulate over a period of two or more given school years, a net ending balance in the capital outlay expenditures or equipment replacement reserved account of more than 15 percent of the previous fiscal year's expenditures, under provisions of a resolution of the governing board pursuant to paragraph (2) of subdivision (b).

(d) With the exception of ending balances governed by provisions of Section 2558.5, funds placed in either the general reserve or appropriation for contingencies account, or the capital outlay or equipment replacement accounts, shall only be expended for regional occupational center or program educational purposes.

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 for regional occupational centers and programs to adequately plan for future financial needs, it is necessary that this act take effect immediately.

CHAPTER 1045

An act relating to prisoners.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. The Legislature finds and declares that the costs of state government record storage and retrieval are escalating. The Legislature further finds and declares that new record conversion technologies offer a promising means for coping with current records management problems.

SEC. 2. It is the policy of the State of California that state prisons shall provide prisoners with a work environment in order that, upon their release, inmates may have the skills necessary for the successful reentry into society. It is also the policy of the state to promote the establishment and growth of prison industries whose work shall benefit the state.

SEC. 3. The Department of General Services and the Department of Corrections shall investigate the feasibility of establishing prison work programs to operate record storage and retrieval systems for appropriate departments of state government. The Departments of General Services and Corrections shall prepare and submit a report of their findings to the Legislature no later than January 1, 1984.

CHAPTER 1046

An act to amend Section 995.2 of the Government Code, relating to public entities.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 995.2 of the Government Code is amended to read:

995.2. (a) A public entity may refuse to provide for the defense

of a civil action or proceeding brought against an employee or former employee if the public entity determines any of the following:

(1) The act or omission was not within the scope of his or her employment.

(2) He or she acted or failed to act because of actual fraud, corruption, or actual malice.

(3) The defense of the action or proceeding by the public entity would create a specific conflict of interest between the public entity and the employee or former employee. For the purposes of this section, "specific conflict of interest" means a conflict of interest or an adverse or pecuniary interest, as specified by statute or by a rule or regulation of the public entity.

(b) If an employee or former employee requests in writing that the public entity, through its designated legal counsel, provide for a defense, the public entity shall, within 20 days, inform the employee or former employee whether it will or will not provide a defense, and the reason for the refusal to provide a defense.

(c) If an actual and specific conflict of interest becomes apparent subsequent to the 20-day period following the employee's written request for defense, nothing herein shall prevent the public entity from refusing to provide further defense to the employee. The public entity shall inform the employee of the reason for the refusal to provide further defense.

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. 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 1047

An act to amend Section 42400 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 42400 of the Health and Safety Code is amended to read:

42400. (a) Any person who violates any provision of this part, or any order, rule, or regulation of the state board or of a district adopted pursuant to this part, is guilty of a misdemeanor and shall be subject to a fine not exceeding one thousand dollars ($1,000), or imprisonment in the county jail for a period not exceeding six months, or both.

(b) Every day during any portion of which the violation occurs constitutes a separate offense.

(c) If a violation under subdivision (a) with regard to the failure to operate a vapor recovery system on a gasoline cargo tank is directly caused by the actions of an employee under the supervision of, or of any independent contractor working for, any person subject to this part, the employee or independent contractor, as the case may be, causing the violation is guilty of a misdemeanor. That liability shall not extend to the person employing the employee or retaining the independent contractor, unless that person is separately guilty of any action violating any provision of this part.

CHAPTER 1048

An act to add Article 1.5 (commencing with Section 11155) to Chapter 2 of Title 1 of Part 4 of the Penal Code, relating to corrections.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Article 1.5 (commencing with Section 11155) is added to Chapter 2 of Title 1 of Part 4 of the Penal Code, to read:

Article 1.5. Reports of Disposition of Inmates

11155. (a) At least 30 days prior to the placement of an inmate in any reentry or work furlough program, the Department of Corrections shall send written notice, if such notice has been requested, to all of the following: (1) the chief of police of the city, if any, in which the inmate will reside, if known, or in which placement will be made, (2) the sheriff of the county in which the inmate will reside, if known, or in which placement will be made, and (3) the victim, if any, of the crime for which the inmate was convicted or the next of kin of the victim if the crime was a homicide, if the victim or the next of kin has submitted a request for notice with the department. Information regarding victims or next of kin requesting the notice, and the notice, shall be confidential and not

available to the inmate.

(b) In the event of an escape of an inmate from any facility under the jurisdiction of the Department of Corrections, the department shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city, and the sheriff of the county, in which the inmate resided immediately prior to the inmate's arrest and conviction, and, if previously requested, to the victim, if any, of the crime for which the inmate was convicted, or to the next of kin of the victim if the crime was a homicide. If the inmate is recaptured, the department shall send written notice thereof to the persons designated in this subdivision within 30 days after regaining custody of the inmate.

(c) The Department of Corrections shall send the notices required by this section to the last address provided to the department by the requesting party. It is the responsibility of the requesting party to provide the department with a current address.

11157. The victims may be notified of the opportunity to receive the notices provided by this article by means of adding a paragraph to the information contained on subpoena forms which are used in subpoenaing victims as material witnesses to any court proceedings resulting from the perpetration of the crime in which the victim was involved.

11158. As used in this article, "victim" means any person alleged or found, upon the record, to have sustained physical or financial injury to person or property as a direct result of the crime charged.

CHAPTER 1049

An act to add Section 84308 to the Government Code, relating to campaign contributions.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 84308 is added to the Government Code, to read:

84308. (a) No elected or appointed officer, or alternate, or candidate for office, who serves on a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), shall accept, solicit, or direct a contribution of two hundred fifty dollars ($250) or more, from any person, or his or her agent, who has an application for a license, permit, or other entitlement for use pending before any body of which the officer or alternate is a member and for three months following the date a decision is rendered on the application or from any person, or his or her agent, who actively supports or opposes the application;

provided, however, that the officer or alternate knows or has reason to know that the person who supports or opposes the application has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer, alternate or candidate accepts, solicits, or directs the contribution for himself or herself or on behalf of any other officer, alternate, or candidate for office.

(b) Prior to rendering any decision on an application for a license, permit or other entitlement for use pending before a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), each member and alternate acting in the capacity of a member who has received a contribution to be used in a federal, state, or local election in an amount of two hundred fifty dollars ($250) or more from an applicant or any person who supports or opposed the application, and who has a financial interest, within the preceding 12 months must disclose that fact. No elected or appointed officer or alternate or candidate for office who serves on a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), shall vote on any application for a license, permit or other entitlement for use pending before any body of which the officer or alternate is a member if the officer, alternate, or candidate for office has willfully or knowingly received a contribution to be used in a federal, state, or local election in an amount of two hundred fifty dollars ($250) or more within the preceding 12 months from the applicant or his or her agent, or from any person, or his or her agent who actively supports or opposes the application; provided, however, that the officer or alternate or candidate for office knows or has reason to know that the person who supports or opposes the application has a financial interest, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7, in the decision.

If an officer, alternate or candidate for office who receives a contribution to be used in a federal, state, or local election which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the application for a license, permit, or other entitlement for use, he or she shall be permitted to vote on the application.

Nothing in this section shall be construed to imply that any contribution subject to being reported under the Political Reform Act of 1974 shall not be so reported.

(c) Whenever any person applies to a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), for a license, permit, or other entitlement for use, that person shall include with his or her application a statement disclosing any contribution to be used in a federal, state, or local election in an amount of two hundred fifty dollars ($250) or more made by the applicant, or his or her agent, if any, to any member, alternate, or candidate of the board or commission before which the

application is pending and which have been made within the last 12 months of the date of the application to any such member, alternate or candidate. Whenever any person actively supports or opposes a license, permit, or other entitlement for use pending before a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), that person shall submit a statement to such board or commission disclosing any contribution to be used in a federal, state, or local election in an amount of two hundred fifty dollars ($250) or more made within the last 12 months by the active supporter or opponent or his or her agent, if any, to any member, alternate, or candidate of that board or commission. No person, or his or her agent, who has an application for a license, permit, or other entitlement for use pending before any quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), or a person who actively supports or opposes the application shall make a contribution of two hundred fifty dollars ($250) or more, to any elected or appointed officer, or alternate or candidate of that board or commission for three months following the date a decision is rendered on the application. The majority shareholder of a closed corporation that has an application for a license, permit, or other entitlement for use pending before a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), is subject to the disclosure and prohibition requirements specified in subdivisions (a), (b), and this subdivision.

(d) Legislative bodies such as city councils, county boards of supervisors, and the State Legislature while acting as a body or a committee thereof are exempted from the coverage of this section. However, this section applies to any member of such a legislative body who serves as a voting member on another quasi-judicial board or commission which considers individual applications for licenses, permits, or entitlements for use. State constitutional officers who serve on a board or commission as a requirement of their constitutional office are not subject to the provisions of this section.

For purposes of this section, a person actively supports or opposes an application if he or she lobbies in person for or against the application, testifies in person for or against the application, or otherwise acts to influence members or alternates of the board or commission for or against the application, and the person has a financial interest, as described in Article 1 (commencing with Section 87100) of Chapter 7, which will be affected by the decision.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purpose of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1050

An act to add Section 25207 to the Corporations Code, and to add Sections 1338, 6702.5, 14652.5, and 18022.5 to, the Financial Code, relating to financial institutions.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 25207 is added to the Corporations Code, to read:

25207. A financial institution which undertakes activities with respect to an investment company pursuant to the provisions of Section 1338, 6702.5, 14652.5 or 18022.5 of the Financial Code shall not be subject to Section 25210 or 25230 in connection with such activities but shall be subject to Sections 25218, 25234, 25235, and 25237 and to subdivisions (a), (b), and (d) of Section 25216, and such rules thereunder as the commissioner may specify by rule. Nothing in this section shall affect the status of such a financial institution as a broker-dealer or investment adviser, or the employees of such persons, when engaged in the activities authorized by the provisions of the Fianancial Code specified above.

SEC. 2. Section 1338 is added to the Financial Code, to read:

1338. A commercial bank may organize, sponsor, operate, control, or render investment advice to, an investment company, or underwrite, distribute, or sell securities of any investment company which has qualified to sell its securities in this state pursuant to Part 2 (commencing with Section 25100) of Division 1 of Title 4 of the Corporations Code, if the officers and employees of the bank who sell these securities meet such standards with respect to training, experience, and sales practices as established by the Secretary of the Business, Transportation and Housing Agency or the secretary's designee. For the purpose of this section, "investment company" means an investment company as defined in the Investment Company Act of 1940 (15 U.S.C., Sec. 80a-1 et seq.).

SEC. 3. Section 6702.5 is added to the Financial Code, to read:

6702.5. An association may organize, sponsor, operate, control, or render investment advice to, an investment company, or underwrite, distribute, or sell securities of any investment company which has qualified to sell its securities in this state pursuant to Part 2 (commencing with Section 25100) of Division 1 of Title 4 of the Corporations Code, if the officers and employees of the association who sell these securities meet such standards with respect to training experience, and sales practices as established by the Secretary of the Business, Transportation and Housing Agency or the secretary's designee. For the purpose of this section, "investment company" means an investment company as defined in the Investment

Company Act of 1940 (15 U.S.C., Sec. 80a-1 et seq.).

SEC. 4. Section 14652.5 is added to the Financial Code, to read:

14652.5. A credit union may organize, sponsor, operate, control, or render investment advice to, an investment company, or underwrite, distribute, or sell securities of any investment company which has qualified to sell its securities in this state pursuant to Part 2 (commencing with Section 25100) of Division 1 of Title 4 of the Corporations Code, if the officers and employees of the credit union who sell these securities meet such standards with respect to training, experience, and sales practices as established by the Secretary of the Business, Transportation and Housing Agency or the secretary's designee. For the purpose of this section, "investment company" means an investment company as defined in the Investment Company Act of 1940 (15 U.S.C., Sec. 80a-1 et seq.).

SEC. 5. Section 18022.5 is added to the Financial Code, to read:

18022.5. An industrial loan company may organize, sponsor, operate, control, or render investment advice to, an investment company, or underwrite, distribute, or sell securities of any investment company which has qualified to sell its securities in this state pursuant to Part 2 (commencing with Section 25100) of Division 1, Title 4 of the Corporations Code, if the officers and employees of the industrial loan company who sell these securities meet such standards with respect to training experience, and sales practices as established by the Secretary of the Business, Transportation and Housing Agency or the secretary's designee. For the purpose of this section, "investment company" means an investment company as defined in the Investment Company Act of 1940 (15 U.S.C., Sec. 80a-1 et seq.).

SEC. 6. This act shall become operative on the effective date of federal legislation which contains provisions which are identical to this act or provisions which are substantially similar to this act as determined by the Secretary of the Business, Transportation and Housing Agency, or on July 1, 1984, whichever occurs first.

CHAPTER 1051

An act to add Title 5 (commencing with Section 275) to Part 3 of Division 1 of the Civil Code, relating to minors.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Title 5 (commencing with Section 275) is added to Part 3 of Division 1 of the Civil Code, to read:

TITLE 5. PRIORITIES FOR FOSTER CARE AND ADOPTIVE PLACEMENT

275. The Department of Social Services may establish regulations which set priorities for the placement of children in foster care which reflect the consideration of the racial background, ethnic heritage, religion, and cultural heritage of a child and the geographic proximity of the placement to the natural parents. These priorities shall not be the basis for undue delay in the placement of children, or for the disruption of stable long-term foster care placements. These priorities shall also not be construed as categorically prohibiting placements across lines of race, ethnicity, religion, cultural heritage and geographic proximity.

276. The Department of Social Services may establish regulations which set priorities for the placement of children for adoption which reflect consideration of the racial background, ethnic heritage, religion, cultural heritage of the child and geographic proximity. These priorities shall not be the basis for undue delay in the placement of children, or for the disruption of stable long-term foster care placements. These priorities shall also not be construed as categorically prohibiting placement across lines of race, ethnicity, religion, cultural heritage and geographic proximity.

CHAPTER 1052

An act relating to county superintendents of schools.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. In a county of the second class with more than 325,000 units of average daily attendance in the 1980–81 fiscal year, any agreement entered into between the county board of education and the county board of supervisors for legal services to be provided by the county counsel pursuant to Section 2506.7 of the Education Code may be:

(a) Terminated by either party at any time if an increase in the maximum allowable tax rate available to a fiscally independent county superintendent of schools is precluded by operation of law or any other reason.

(b) Terminated by either party prior to and effective on June 30 of any fiscal year during the term of the agreement.

(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.

CHAPTER 1053

An act to add Sections 116.5, 116.7, 117, and 117.5 to the Health and Safety Code, relating to health.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 116.5 is added to the Health and Safety Code, to read:

116.5. Notwithstanding any other provision of state law, the State Department of Health Services shall develop a proposal for consolidation of various programs affecting the health of mothers and children. The department, in developing the proposal, shall consult with the State Maternal Child and Adolescent Health Board, the California Conference of Local Health Officers, the County Supervisors Association of California, the Primary Care Clinic Advisory Committee, and other organizations interested in health services for women and children as determined by department, which shall assist them in identifying waivers from state and federal requirements that would be necessary to implement a proposal. The proposal shall consider administrative cost savings that may result from such consolidation. The department shall obtain waivers from state and federal requirements which the department determines are necessary to make the proposal viable. Any problem in obtaining the waivers shall be reported to the Legislature with the proposals. The department shall submit its proposal to the Legislature on or before January 1, 1984. Programs may include, but need not be limited to, the following:

(a) California Children Services.
(b) WIC—Special Supplemental Food.
(c) Child Health and Disability Prevention.
(d) California Immunization Assistance Program.
(e) Children and Youth Project.
(f) Dental Disease Prevention.
(g) Rural Health.
(h) Indian Health.
(i) Pediatric Renal Failure Centers.
(j) Prepaid Health Plans.
(k) Family Planning.
(*l*) Infant Medical Dispatch Centers Program.
(m) Childhood Lead Program.
(n) Tuberculosis Control Program.
(o) Venereal Disease.
(p) SSI Disabled Children's Program.
(q) Other maternal and child health programs, including, but not limited to, the following:

(1) Sickle Cell.
(2) Prenatal Testing.
(3) Tay Sachs.
(4) Huntington's Disease.
(5) Prenatal Access.
(6) High Risk Followup.
(7) O.B. Access.
(8) Perinatal Health Clinics.
(9) Primary Care Clinics.
(10) Maternal and Child Health Grants.

Consolidation may include combining two or more specialized programs or the development of a single planning, evaluation, budgeting and reporting process for two or more programs which share a common target population. The department may submit more than one proposal for consolidation if two or more groupings of programs merit consolidation.

Each proposal shall be developed after a review by the department of consolidation efforts proposed or developed by the counties. In the design of the proposal, the department shall consider how state level plans may assist further development of these local efforts.

The department shall consult with the Department of Finance to develop a simplified budget and reporting format for programs which are recommended for consolidation.

The Department of Finance shall make such modifications in the California Fiscal Information System as it deems necessary to accommodate proposed program consolidation.

The Office of Statewide Health Planning and Development shall consult with the department with respect to the implementation of the provisions of this section. The Office of Statewide Health Planning and Development shall incorporate recommendations for the consolidation of maternal, child and adolescent health services in applicable policy plans adopted after the effective date of this act.

SEC. 2. Section 116.7 is added to the Health and Safety Code, to read:

116.7. Each state level consolidation proposal shall include plans for the development of the following:

(a) Common eligibility standards for programs included within the consolidated proposal, or, if federal law requires different eligibility standards for such programs, a common method for determining eligibility.

(b) A single form for the collection of necessary data from individuals, or a uniform format shared by all programs included in the consolidated proposal.

(c) A single form for reporting service delivery to the state.

(d) Shared plans, budgets and fiscal accountability mechanisms, including audit procedures.

(e) Common intake points for services included in the consolidated system, which includes eligibility determination,

referral services, and follow through.

(f) A unified case management system.

(g) A method of determining the needs of, and developing services to, special populations.

(h) Implementation plans which propose solutions to any identified significant barriers or gaps in service.

SEC. 3. Section 117 is added to the Health and Safety Code, to read:

117. The director may seek and grant such waivers which the department determines are reasonably necessary for the implementation of the department's proposed consolidations.

SEC. 4. Section 117.5 is added to the Health and Safety Code, to read:

117.5. It is the intent of the Legislature that the duties and responsibilities provided for in Sections 116.5 and 116.7 be accomplished by utilizing existing staff resources, and that no additional funding be provided other than that which is appropriated by the Legislature in the annual Budget Act.

CHAPTER 1054

An act to amend Sections 66701 and 68055.1 of, to amend the headings of Title 7.3 (commencing with Section 66700) and Chapter 2 (commencing with Section 68055) of Title 7.8 of, to add Article 3.5 (commencing with Section 66788) to Chapter 2 of Title 7.3 of, and to repeal Chapter 1 (commencing with Section 68000) of Title 7.8 of, to repeal Sections 68055.4, 68055.6, and 68055.8 of, the Government Code, relating to solid waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. The heading of Title 7.3 (commencing with Section 66700) of the Government Code, is amended to read:

TITLE 7.3. SOLID WASTE MANAGEMENT, RESOURCE RECOVERY, AND RECYCLING

SEC. 2. Section 66701 of the Government Code is amended to read:

66701. The Legislature finds and declares as follows:

(a) The increasing volume and variety of solid wastes being generated throughout the state, coupled with the often inadequate existing methods of managing such wastes, are creating conditions which threaten the public health, safety, and well-being by

contributing to air, water, and land pollution, to the production of flies, rodents, and litter, to the waste of dwindling natural resources, and to the general deterioration of the environment.

(b) The foregoing situation arises from the interaction of a number of factors, including rapid population increase, decentralized urban growth, industrial expansion, agricultural changes, transportation improvements, and technological developments in the manufacturing, packaging, and marketing of consumer products, which collectively are placing planning, economic, and resource base limitations upon the availability of land for solid waste disposal.

(c) The traditional methods of solid waste management in this state directed largely to land disposal may not meet future requirements for eliminating environmental pollution and conserving natural resources.

(d) Methods of solid waste management emphasizing source reduction, recovery, conversion, and recycling of all solid wastes are essential to the long-range preservation of the health, safety, and well-being of the public, to the economic productivity and environmental quality of the state, and to the conservation of the state's remaining natural resources.

(e) The burden placed on existing solid waste management systems to collect disposed and littered products and the need to reduce energy and other resource consumption make it imperative that the present high level of recycling activities be continued and that resource recovery systems be developed to process all recyclable materials, as well as other energy rich components of solid waste.

SEC. 3. Article 3.5 (commencing with Section 66788) is added to Chapter 2 of Title 7.3 of the Government Code, to read:

Article 3.5. Technical and Financial Assistance

66788. Through the provision of technical and financial assistance, the board shall support projects and activities to achieve the goals and fulfill its responsibilities under this title.

66788.1. No funds shall be expended for any of the projects and activities eligible for assistance pursuant to this article, unless funds are appropriated therefor by the Legislature.

66788.2. Projects and activities eligible for state financial assistance shall be limited to the following:

(a) Research and development projects.

(b) Projects that demonstrate a new or innovative process, technology, or system.

(c) Technical studies.

(d) Practices to improve solid waste management health and safety practices in California.

(e) Public awareness, education, and participation programs.

66789. Before awarding state financial assistance, the board shall

determine that the project or activity meets all of the following requirements:

(a) The project or activity helps to increase the cost effectiveness and environmental quality of solid waste management in California.

(b) The funds do not replace existing funding which would be used for the same purposes.

(c) The project or activity is applicable to the statewide resolution of solid waste management problems.

(d) The project or activity is consistent with the county solid waste management plans and has the explicit support of the affected local jurisdictions.

66789.1. The board shall, to the maximum extent feasible, award state financial assistance to those projects and activities which can demonstrate all of the following:

(a) The commitment of matching funds by the proponent of the project or activity.

(b) The long-term economic viability of the project or activity.

66789.2. The board shall provide, by regulations, procedures for the disbursement, oversight, and audit of funds and the evaluation of the effectiveness of projects and activities assisted pursuant to this article.

66789.3. (a) Before providing state financial assistance to recycling projects, the board shall determine that the project to be financed meets all of the following conditions:

(1) The project shall test or demonstrate a new or innovative technology or system for recovering recyclable materials.

(2) The applicant shall provide sufficient evidence for the board to find that the materials to be collected are not being recovered and would not otherwise be recovered without state financing pursuant to this article.

(3) The materials collected will be absorbed in an existing materials recovery operation, or the materials, by being collected, will create a new market.

(b) The board shall not provide state financial assistance to an applicant, or to any entity owned or operated by an applicant, if that applicant is purchasing or will be purchasing recyclable materials, other than the usual components of recyclable municipal and household waste, at a location within the same general geographic area as an existing recycling operation and those purchases will divert the waste away from the existing recycling operations which also purchase these recyclable materials.

For the purposes of this subdivision, "usual components of recyclable municipal and household waste" includes only those items commonly left at the curb for municipal curbside collection.

66789.4. (a) The board, upon determining that an advance payment is essential for the effective implementation of a project or activity receiving assistance pursuant to this article, and to the extent funds are available and appropriated subsequent to July 1, 1982, may advance not more than once each fiscal year, to a community-based

private nonprofit agency with which it has contracted for the delivery of services, an amount not to exceed 25 percent of the annual allocation to be made to the agency pursuant to the contract during the fiscal year. Advance payments may be provided for services to be performed under any contract that meets either of the following conditions:

(1) The total annual contract amount is two hundred thousand dollars ($200,000) or less.

(2) The contract is with any community-based private nonprofit agency with modest reserves and potential cash flow problems.

(b) No advance payment shall be made if the total annual contract exceeds two hundred thousand dollars ($200,000) without the prior approval of the Department of Finance.

(c) The board shall develop a plan, subject to the approval of the Department of Finance, to establish control procedures for advance payments. The plan shall include a procedure whereby the board determines whether or not an advance payment is essential for the effective implementation of a particular program being funded.

SEC. 4. Chapter 1 (commencing with Section 68000) of Title 7.8 of the Government Code is repealed.

SEC. 5. The heading of Chapter 2 (commencing with Section 68055) of Title 7.8 of the Government Code, is amended to read:

CHAPTER 2. LITTER RECEPTACLES

SEC. 6. Section 68055.1 of the Government Code is amended to read:

68055.1. Unless the context otherwise requires, the definitions as set forth in this section govern the construction of this chapter.

(a) "Public place" means any area that is used or held out for the use of the public whether owned and operated by public or private interests, but not including indoor areas. "Indoor area" means any enclosed area covered with a roof and protected from moisture and wind.

(b) "Drive-in restaurant" means a restaurant that sells food products for immediate consumption on or near a location at which parking facilities are provided for the use of patrons in consuming the products purchased at the restaurant.

(c) "Fast food outlet" means a restaurant that sells food products primarily on a "takeout" or "to go" basis.

(d) "Grocery stores" includes, but is not limited to, convenience markets that sell groceries.

(e) "Shopping centers" means a group of two or more stores that maintain a common parking lot for patrons of those stores.

(f) "Board" means the State Solid Waste Management Board.

(g) "Litter" means all improperly discarded waste material, including, but not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or

deposited on the lands and waters of the state, but not including the properly discarded waste of the primary processing of agriculture, mining, logging, sawmilling, or manufacturing.

(h) "Solid waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes.

SEC. 7. Section 68055.4 of the Government Code is repealed.

SEC. 8. Section 68055.6 of the Government Code is repealed.

SEC. 9. Section 68055.8 of the Government Code is repealed.

SEC. 10. Moneys appropriated under category (b) of line item 3380-001-389 of the Budget Act of 1982, and any provisions relating thereto, shall be expended pursuant to Article 3.5 (commencing with Section 66788) of Chapter 2 of Title 7.3 of the Government Code.

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:

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 1055

An act relating to the state highways.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. (a) Notwithstanding any other provision of law, the Department of Transportation may offer to the City of Soledad, for sale at less than fair market value and under the terms and conditions determined by the department to be in the interests of the state, the old maintenance station site in the city and the parcel of property with the maintenance foreman's house and shed which is located adjacent to the old maintenance station site.

(b) The sales price to the city of the parcels of property with improvements shall not exceed 58 percent of the fair market value of the land plus the fair market value of the improvements. Fair market value of the parcels of property and the improvements shall be determined at the time of the acquisition by the city.

(c) The Legislature finds and declares that the City of Soledad contributed five hundred dollars ($500) of the twelve hundred dollar ($1,200) purchase price of the land to be sold under this section when the department originally purchased the land in 1926.

CHAPTER 1056

An act to amend Section 3041.7 of the Penal Code, relating to parole.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 3041.7 of the Penal Code is amended to read:

3041.7. At any hearing for the purpose of setting, postponing, or rescinding a parole release date of a prisoner under a life sentence, such prisoner shall be entitled to be represented by counsel and the provisions of Section 3041.5 shall apply. The Board of Prison Terms shall provide by rule for the invitation of the prosecutor of the county from which the prisoner was committed, or his representative, to represent the interests of the people at any such hearing. The Board of Prison Terms shall notify the prosecutor and the Attorney General at least 30 days prior to the date of the hearing.

Notwithstanding Section 12550 of the Government Code, the prosecutor of the county from which the prisoner was committed, or his representative, who shall not be the Attorney General, shall be the sole representative of the interests of the people.

CHAPTER 1057

An act to add Article 4.5 (commencing with Section 19130) to Division 5 of Title 2 of the Government Code, relating to personal services contracts.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Article 4.5 (commencing with Section 19130) is added to Division 5 of Title 2 of the Government Code, to read:

Article 4.5. Personal Services Contracts

19130. The purpose of this article is to establish standards for the use of personal services contracts.

(a) Personal services contracting is permissible to achieve cost savings when all the following conditions are met:

(1) The contracting agency clearly demonstrates that the proposed contract will result in actual overall cost savings to the

state, provided that:

(A) In comparing costs, there shall be included the state's additional cost of providing the same service as proposed by a contractor. These additional costs shall include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment, and materials needed to perform the function.

(B) In comparing costs, there shall not be included the state's indirect overhead costs unless these costs can be attributed solely to the function in question and would not exist if that function was not performed in state service. Indirect overhead costs shall mean the pro rata share of existing administrative salaries and benefits, rent, equipment costs, utilities and materials.

(C) In comparing costs, there shall be included in the cost of a contractor providing a service any continuing state costs that would be directly associated with the contracted function. These continuing state costs shall include, but not be limited to, those for inspection, supervision, and monitoring.

(2) Proposals to contract out work shall not be approved solely on the basis that savings will result from lower contractor pay rates or benefits. Proposals to contract out work shall be eligible for approval if the contractor's wages are at the industry's level and do not significantly undercut state pay rates.

(3) The contract does not cause the displacement of civil service employees. The term "displacement" includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. Displacement does not include changes in shifts or days off, nor does it include reassignment to other positions within the same class and general location.

(4) The contract does not adversely affect the state's affirmative action efforts.

(5) The savings shall be large enough to ensure that they will not be eliminated by private sector and state cost fluctuations that could normally be expected during the contracting period.

(6) The amount of savings clearly justify the size and duration of the contracting agreement.

(7) The contract is awarded through a publicized, competitive bidding process.

(8) The contract includes specific provisions pertaining to the qualifications of the staff that will perform the work under the contract, as well as assurance that the contractor's hiring practices meet applicable nondiscrimination, affirmative action standards.

(9) The potential for future economic risk to the state from potential contractor rate increases is minimal.

(10) The contract is with a firm. A "firm" means a corporation, partnership, nonprofit organization or sole proprietorship.

(11) The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function

performed directly by state government.

(b) Personal services contracting also shall be permissible when any of the following conditions can be met:

(1) The functions contracted are exempted from civil service by Section 4 of Article VII of the California Constitution, which describes exempt appointments.

(2) The contract is for a new state function and the Legislature has specifically mandated or authorized the performance of the work by independent contractors.

(3) The services contracted are not available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience or ability are not available through the civil service system.

(4) The services are incidental to a contract for the purchase or lease of real or personal property. Contracts under this criterion, known as "service agreements," shall include, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented.

(5) The legislative, administrative, or legal goals and purposes cannot be accomplished through the utilization of persons selected pursuant to the regular civil service system. Contracts are permissible under this criterion to protect against a conflict of interest or to insure independent and unbiased findings in cases where there is a clear need for a different, outside perspective. These contracts shall include, but not be limited to, obtaining expert witnesses in litigation.

(6) The nature of the work is such that the Government Code standards for emergency appointments apply. Such contracts shall conform with Article 4 (commencing with Section 19120) of Division 5 of Title 2 of the Government Code.

(7) State agencies need private counsel because a conflict of interest on the part of the Attorney General's office prevents it from representing the agency without compromising its position. Such contracts shall require the written consent of the Attorney General, pursuant to Section 11040 of the Government Code.

(8) The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the state in the location where the services are to be performed.

(9) The contractor will conduct training courses for which appropriately qualified civil service instructors are not available, provided that permanent instructor positions in academies or similar settings shall be filled through civil service appointment.

(10) The services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose.

(c) All persons who provide services to the state under conditions the board determines constitute an employment relationship shall, unless exempted from civil service by Section 4 of Article VII of the

California Constitution, be retained under an appropriate civil service appointment.

19131. Any state agency proposing to execute a contract pursuant to subdivision (a) of Section 19130 shall notify the State Personnel Board of its intention. All organizations that represent state employees who perform the type of work to be contracted, and any person or organization which has filed with the board a request for notice, shall be contacted immediately by the State Personnel Board upon receipt of this notice so that they may be given a reasonable opportunity to comment on the proposed contract. Departments or agencies submitting proposed contracts are required to retain and provide all data and other information relevant to the contracts and necessary for a specific application of the standards set forth in subdivision (a) of Section 19130. Any employee organization may request, within 10 days of notification, the State Personnel Board to review any contract proposed or executed pursuant to subdivision (a) of Section 19130. The review shall be conducted in accordance with the provisions of subdivision (b) of Section 14826.6. Upon such a request, the State Personnel Board shall review the contract for compliance with the standards specified in subdivision (a) of Section 19130.

19132. The State Personnel Board, at the request of an employee organization that represents state employees, shall review the adequacy of any proposed or executed contract which is of a type enumerated in subdivision (b) of Section 19130. The review shall be conducted in accordance with the provisions of subdivision (c) of Section 14826.6. However, a contract that was reviewed at the request of an employee organization when it was proposed need not be reviewed again after its execution.

CHAPTER 1058

An act to amend Sections 27423 and 51142 of the Government Code, and to amend Sections 38902, 38903, 38904, 38905, and 38908 of, to add Section 38905.1 to, to repeal Sections 38905 and 38906 of, and to repeal Chapter 4 (commencing with Section 38301) of Part 18.5 of Division 2 of, the Revenue and Taxation Code, relating to timber taxation, and making an appropriation therefor.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 27423 of the Government Code is amended to read:

27423. (a) On or before May 1, 1977, the assessor of each county for the local roll and the State Board of Equalization for the board

roll shall determine the annual assessed value attributable to timber, as defined in subdivision (a) of Section 431 of the Revenue and Taxation Code, of each tax rate area for the 1972–73 to 1974–75 fiscal years, inclusive. Such values shall be from the corrected, equalized assessment roll for each such year, including escape assessments subsequently added to the roll. Escape assessments determined subsequent to June 30, 1975, for any of the three fiscal years specified shall be reported to the county auditor who shall certify to the Controller a revision in the amounts of average annual property tax revenue attributable to timber for each affected taxing jurisdiction on or before July 15, 1977, and July 15 of each year thereafter.

(b) Using the assessed values determined pursuant to subdivision (a), on or before June 1, 1977, the auditor of each county shall determine the average annual property tax revenues attributable to timber of each taxing agency for the 1972–73 to 1974–75 fiscal years, inclusive; provided, that if a taxing agency was in existence for less than the entire period, the average for such agency shall be determined by dividing the appropriate amount of property tax revenues by either one year or two years, whichever figure corresponds most nearly to the duration of existence of the agency within such period.

If the average value of the secured roll of a community college district which is attributable to timber over the period of fiscal years 1972–73 to 1974–75, inclusive, meets or exceeds 20 percent, then the auditor shall use a rate which when multiplied by that district's average annual assessed value attributable to timber will produce an amount equivalent to the total amount of property taxes raised by that district in the 1976–77 fiscal year.

For purposes of this section, "average annual property tax revenue attributable to timber" of each school district which levied an areawide tax rate in one or more of fiscal years 1972–73 to 1974–75, inclusive, shall be the product of (1) the amount of money the district received as its reallocation from the areawide fund (not the amount of its own contribution raised from its actual areawide tax rate) for each such fiscal year, and (2) a factor produced by the amount of annual assessed value attributable to timber divided by the amount of all assessed value, within the school district, for each such fiscal year.

Each county auditor shall certify to the Controller a list of this amount for each taxing agency in the county and the total of all such amounts for the county. The auditor shall keep such records for each tax rate area as necessary to make distribution of funds pursuant to Section 38906 of the Revenue and Taxation Code.

(c) The Controller may require that all information pertinent to subdivisions (a) and (b) be retained and may inspect all calculations of the county assessor and county auditor. The Controller or the board may adjust and correct any calculation deemed to be inaccurate. The sum of each county's calculations as adopted by the Controller shall be known as that county's "annual yield tax revenue

guarantee", and shall be certified to the county auditor on or before August 15, 1977.

(d) On or before July 15, 1977, and July 15 of each year thereafter, the auditor shall certify to the Controller the new or revised amount of property tax revenue attributable to timber for each taxing agency which, effective after July 1 of the preceding calendar year and on or before July 1 of the current calendar year, either (1) underwent "governmental reorganization," as described in Section 2295 of the Revenue and Taxation Code, or (2) underwent "functional consolidation," as described in Section 2305 of the Revenue and Taxation Code, or (3) gained approval from its voters to levy an additional property tax rate, effective with the next succeeding fiscal year.

For purposes of this subdivision, the average annual property tax revenue attributable to timber for a taxing agency formed subsequent to June 30, 1975, shall be calculated as follows:

(1) The average annual assessed value attributable to timber shall be the sum of the values of the tax rate areas, as determined by the assessor or the board pursuant to subdivision (a), which correspond to the new agency's boundaries, as if that agency had actually existed during fiscal years 1972–73 to 1974–75, inclusive, and this sum shall be multiplied by

(2) A tax rate represented by 80 percent of the maximum tax rate the new taxing agency was authorized by the voters to levy in its first full year of operation.

For purposes of this subdivision, the average annual property tax revenue attributable to timber for a taxing agency formed prior to June 30, 1975, which annexes territory subsequent to that date, shall have added to it the sum of the values of the tax rate areas, as determined by the assessor or the board pursuant to subdivision (a) which corresponds to the territory which was annexed, multiplied by the average total tax rate levied during fiscal years 1972–73 to 1974–75, inclusive, by the taxing agency which annexed the territory.

For purposes of this subdivision, the average annual property tax revenue attributable to timber for a taxing agency which subsequent to June 30, 1975, has transferred to it by functional consolidation the responsibility of levying a property tax rate to pay the cost of a new service or program shall have added to it the sum of the average annual assessed value attributable to timber for that agency multiplied by the additional property tax rate to be incurred in the first year pursuant to the functional consolidation. For a taxing agency which subsequent to June 30, 1975, has transferred from it the responsibility of levying a property tax rate for a service or program, the average annual property tax revenue attributable to timber shall be reduced by the sum of the annual assessed value attributable to timber for that agency multiplied by the average tax rate levied by the taxing agency during fiscal years 1972–73 to 1974–75, inclusive, for the support of such service or program.

For purposes of this subdivision, when an additional property tax

rate is approved by the voters of a taxing agency in the preceding fiscal year, such agency shall have its average annual property tax revenue attributable to timber revised in the same manner as for a functional consolidation in which responsibility for the funding of a new service or program is added; provided, that such revision will extend only for the same period of time as that authorized by the voters for the existence of the additional voted property tax rate.

(e) On or before August 15, 1977, and August 15 of each year thereafter, the Controller shall certify to each county auditor the revisions certified by the auditor pursuant to subdivision (a) or (d) in the average annual property tax revenue attributable to timber for one or more taxing agencies, to take effect in the current fiscal year. The Controller shall adjust and correct any calculation deemed to be inaccurate, prior to such certification. The amount added to or deducted from a county's previous annual yield tax revenue guarantee will be the property tax revenue attributable to timber, as certified to the Controller by the county auditor pursuant to subdivision (d). The revised annual yield tax revenue guarantee shall take effect for payments made to the county pursuant to subdivision (a) of Section 38905 of the Revenue and Taxation Code in the current fiscal year, and shall remain in effect until subsequent revision under this subdivision.

(f) Upon receipt of the amount certified by the Controller pursuant to subdivision (c) or (e), the county auditor shall within 10 days certify to each taxing agency its share of this amount, and shall deliver to the county treasurer a schedule of these amounts for all taxing agencies in the county, to govern distribution of moneys pursuant to subdivision (a) of Section 38905 of the Revenue and Taxation Code.

(g) For the purposes of this section, in the case of a change in the boundaries of a tax rate area, the assessor or the board shall determine the base year timber value by parcel in each tax rate area affected by the boundary change and the auditor shall apportion the property tax revenue attributable to timber according to this determination.

(h) For the purposes of this section "tax rate area" means a geographical area in which there is a unique combination of tax levies.

(i) For purposes of this section, a taxing agency is deemed to be in existence in any year in which the agency levies a property tax rate. Any taxing agency which was operational prior to June 30, 1975, but levied no property tax rate, may subsequent to that date establish an average annual property tax revenue attributable to timber pursuant to subdivision (d), as a governmental reorganization, in the year next succeeding the year in which it first levies a property tax rate.

(j) For purposes of this section, when computing the property tax revenues attributable to timber for a school district which levied an areawide tax rate during one or more of fiscal years 1972–73 to

1974–75, inclusive, the county auditor shall in his computations of the revenues produced by such a rate use the revenues actually apportioned to the district from the county's areawide fund, and not the revenues raised from the levy of the areawide rate and contributed to the county's areawide fund by said district.

SEC. 1.5. Section 51142 of the Government Code is amended to read:

51142. (a) Upon immediate rezoning of a parcel in a timberland preserve zone, a tax recoupment fee shall be imposed on the owner of the land. Within 90 days following rezoning of land in the timberland preserve the county assessor shall reassess the rezoned parcels on the basis of the value of the property in its rezoned use. The assessor shall certify this value to the owner of the land and to the county auditor. The owner may appeal this new valuation in the same manner as an assessment appeal. Except when under such an appeal, after such certification the auditor shall, in cases of immediate rezoning, within 10 days compute the tax recoupment fee and certify the amount to the tax collector. The tax collector shall notify the owner in writing of the amount and due date of the fee. Fees shall be due 60 days after receipt of notification.

(b) The tax recoupment fee shall apply only in cases of immediate rezoning and shall be a multiple of the difference between the amount of the tax last levied against the property when zoned as timberland preserve and the amount equal to the assessed valuation of the rezoned property times the tax rate of the current levy for the tax rate area, such multiple to be chosen from the following table according to subdivision (c):

Year	Multiple
1	1.06000
2	2.18360
3	3.37462
4	4.63709
5	5.97332
6	7.39384
7	8.89747
8	10.49132
9	12.18080
10	13.97164

(c) The multiple shall correspond to the number of years or fraction thereof, but in no event greater than 10, for which the land was zoned as timberland preserve or was subject to a contract under Chapter 7 (commencing with Section 51200).

(d) Tax recoupment fees imposed pursuant to this section shall be due and payable to the State of California, and shall be placed in the Timber Tax Fund pursuant to Section 38903 of the Revenue and Taxation Code.

(e) In cases of immediate rezoning, an owner may make written

application to the State Board of Equalization requesting waiver of tax recoupment fees and explaining the reasons therefor. The board, if it determines that it is in the public interest, may waive all or any portion of the fee.

SEC. 2. Chapter 4 (commencing with Section 38301) of Part 18.5 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 38902 of the Revenue and Taxation Code is amended to read:

38902. (a) All taxes paid or collected pursuant to Section 38301 shall be deposited in the Timber Tax Reserve Fund, which is hereby created. The money in the fund is hereby appropriated to pay refunds authorized by this part of taxes imposed pursuant to Section 38301 and to the Controller to allocate as provided in this chapter.

(b) On July 31, 1983, the Controller shall transmit 100 percent of the balance of the funds in the Timber Tax Reserve Fund to the counties based on minimum revenue guarantee formulas. County auditors shall in turn allocate these funds among jurisdictions within their counties in proportion to each jurisdiction's minimum revenue guarantee as determined pursuant to Section 27423 of the Government Code.

SEC. 4. Section 38903 of the Revenue and Taxation Code is amended to read:

38903. All taxes, interest, penalties and other amounts collected pursuant to this part shall be deposited in the Timber Tax Fund, which is hereby created.

SEC. 5. Section 38904 of the Revenue and Taxation Code is amended to read:

38904. The money in the Timber Tax Fund is appropriated as follows:

(a) To reimburse the General Fund for funds advanced for costs incurred by the board in administration of this part as follows:

(1) Four hundred sixty-seven thousand nine hundred thirty dollars ($467,930) for fiscal years 1975–76 and 1976–77.

(2) Amounts identified and approved in subsequent fiscal years as approved in the Budget Bill. One-half of this amount shall be reimbursed to the General Fund on November 30, and the remaining one-half on May 31. In the event that not all funds approved in the Budget Bill are actually expended by the board, then in the succeeding fiscal year, the amount to be reimbursed to the General Fund on November 30 shall be reduced by an amount equal to the unexpended appropriation of the preceding fiscal year.

(b) To reimburse the General Fund for funds advanced for costs incurred by the State Forester in administration of Section 4582.8 of the Public Resources Code as follows:

(1) Thirteen thousand five hundred dollars ($13,500) for fiscal years 1975–76 and 1976–77.

(2) Amounts identified and approved in subsequent fiscal years as approved in the Budget Bill.

(c) To the Controller to allocate pursuant to Sections 38905 and

38905.1.

(d) To pay refunds authorized by this part of taxes imposed pursuant to Section 38115 and interest, penalties, and other amounts paid or collected pursuant to this part and deposited in the Timber Tax Fund.

SEC. 6. Section 38905 of the Revenue and Taxation Code is amended to read:

38905. (a) For the 1977–78 fiscal year, the Controller shall transmit to the county treasurer 100 percent of the annual yield tax revenue guarantee certified pursuant to either subdivision (c) or (e) of Section 27423 of the Government Code for the 1977–78 fiscal year and each fiscal year thereafter, less the county's proportional share of the annual costs incurred under subdivisions (a) and (b) of Section 38904. Such proportional share shall be the ratio of each county's share, determined pursuant to subdivision (c) or (e) of Section 27423 of the Government Code, to the total of such shares in the state.

For the 1978–79 fiscal year through and including the 1982–83 fiscal year, the Controller shall transmit to the county treasurer 100 percent of the annual yield tax revenue guarantee certified pursuant to either subdivision (c) or (e) of Section 27423 of the Government Code. These amounts shall be distributed on the following dates of the fiscal year for which they are made: 50 percent on November 30, and 50 percent on May 31. The county auditor shall allocate moneys received under this subdivision among taxing agencies in the proportions accorded the respective agencies in the county's annual yield tax revenue guarantee as certified pursuant to either subdivision (c) or (e) of Section 27423 of the Government Code.

(b) The Controller shall transmit to the Timber Tax Reserve Fund the balance of any money in excess of two hundred fifty thousand dollars ($250,000) in the Timber Tax Fund on June 1, 1978, and on June 1 of each year thereafter following allocation pursuant to subdivision (a); provided, that if the balance in the Timber Tax Reserve Fund, following such transmittal, is eight million dollars ($8,000,000) or more, the amount above seven million dollars ($7,000,000) shall be distributed by the Controller as provided in subdivision (a) of Section 38906, and county auditors shall then distribute receipts as provided in subdivision (b) of Section 38906.

(c) In the event that the balance in the Timber Tax Fund is insufficient to make an allocation provided for in this section, the Controller shall transfer sufficient money to the fund from the Timber Tax Reserve Fund to make the allocation. In the event that there are insufficient funds in the Timber Tax Reserve Fund required to make the allocations provided in this section, each county's share shall be reduced pro rata.

(d) This section shall remain in effect only until August 1, 1983, and on that date is repealed.

SEC. 7. Section 38905.1 is added to the Revenue and Taxation Code, to read:

38905.1. (a) Commencing with the 1983–84 fiscal year, the

Controller shall, pursuant to subdivision (c) of Section 38904, on November 30 and May 31 of each fiscal year, transmit to county treasurers the balance in the Timber Tax Fund on those dates, in accordance with the following allocation schedule:

(1) For the 1983–84 fiscal year, 50 percent of the balance in Timber Tax Fund shall be transmitted to county treasurers based on the annual yield tax revenue guarantee certified for each county pursuant to subdivision (c) or (e) of Section 27423 of the Government Code. The remaining 50 percent of the balance in the fund shall be transmitted to county treasurers in the same proportion that the balance to be transmitted was generated from each county, as certified by the State Board of Equalization.

(2) For the 1984–85 fiscal year and each fiscal year thereafter, 100 percent of the balance in the fund shall be transmitted to county treasurers in the same proportion that the balance to be transmitted was generated from each county, or certified by the State Board of Equalization.

(b) Upon receipt of funds pursuant to subdivision (a), the county auditor shall within 10 days distribute the funds among the jurisdictions (as defined in Section 95) within the county in the same proportion that each jurisdiction's minimum revenue guarantee, determined pursuant to Section 27423 of the Government Code, bears to the total of all those amounts for all jurisdictions within the county.

(c) It is the intent of the Legislature that the provisions of subdivision (a) shall provide a final and conclusive disposition of the problem of allocating yield tax revenues among counties entitled to those revenues.

SEC. 8. Section 38906 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 38908 of the Revenue and Taxation Code is amended to read:

38908. Local governmental entities which are allocated funds pursuant to Section 38905 or 38905.1 may expend such funds without restriction.

SEC. 10. With regard to community college funding from timber tax revenues, it is the intent of the Legislature that the community college funding provisions for the 1983–84 fiscal year and each fiscal year thereafter shall include the following provisions:

(a) The base fiscal year revenues for each district shall include the amount of timber yield tax minimum revenue guarantee, as certified pursuant to Section 27423 of the Government Code.

(b) For purposes of determining the amount of the state's general apportionment, the amount of timber yield tax revenue shall be considered local revenue and subtracted, along with property tax revenues and motor vehicle license fees, from the total revenues of the district.

CHAPTER 1059

An act to amend Sections 1245.230 and 1250.410 of the Code of Civil Procedure, and to amend Section 7267.2 of the Government Code, relating to eminent domain.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 1245.230 of the Code of Civil Procedure is amended to read:

1245.230. In addition to other requirements imposed by law, the resolution of necessity shall contain all of the following:

(a) A general statement of the public use for which the property is to be taken and a reference to the statute that authorizes the public entity to acquire the property by eminent domain.

(b) A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification.

(c) A declaration that the governing body of the public entity has found and determined each of the following:

(1) The public interest and necessity require the proposed project.

(2) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(3) The property described in the resolution is necessary for the proposed project.

(4) That the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record.

If at the time the governing body of a public entity is requested to adopt a resolution of necessity and the project for which the property is needed has been determined by the public entity to be an emergency project, which project is necessary either to protect or preserve health, safety, welfare, or property, the requirements of Section 7267.2 of the Government Code need not be a prerequisite to the adoption of an authorizing resolution at the time. However, in those cases the provisions of Section 7267.2 of the Government Code shall be implemented by the public entity within a reasonable time thereafter but in any event, not later than 90 days after adoption of the resolution of necessity.

SEC. 2. Section 1250.410 of the Code of Civil Procedure is amended to read:

1250.410. (a) At least 30 days prior to the date of the trial on issues relating to compensation, the plaintiff shall file with the court and serve on the defendant its final offer of compensation in the proceeding and the defendant shall file and serve on the plaintiff its

final demand for compensation in the proceeding. Such offers and demands shall be the only offers and demands considered by the court in determining the entitlement, if any, to litigation expenses. Service shall be in the manner prescribed by Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(b) If the court, on motion of the defendant made within 30 days after entry of judgment, finds that the offer of the plaintiff was unreasonable and that the demand of the defendant was reasonable viewed in the light of the evidence admitted and the compensation awarded in the proceeding, the costs allowed pursuant to Section 1268.710 shall include the defendant's litigation expenses.

In determining the amount of such litigation expenses, the court shall consider the offer required to be made by the plaintiff pursuant to Section 7267.2 of the Government Code and any other written offers and demands filed and served prior to or during the trial.

(c) If timely made, the offers and demands as provided in subdivision (a) shall be considered by the court on the issue of determining an entitlement to litigation expenses.

SEC. 3. Section 7267.2 of the Government Code is amended to read:

7267.2. Prior to adopting a resolution of necessity pursuant to Section 1245.230 and initiating negotiations for the acquisition of real property, the public entity shall establish an amount which it believes to be just compensation therefor, and shall make an offer to the owner or owners of record to acquire the property for the full amount so established. The offer may be conditioned upon the legislative body's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity or both. In no event shall such amount be less than the public entity's approved appraisal of the fair market value of the property. Any decrease or increase in the fair market value of real property to be acquired prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant, shall be disregarded in determining the compensation for the property. The public entity shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. Where the property involved is owner occupied residential property and contains no more than four residential units, the homeowner shall, upon request, be allowed to review a copy of the appraisal upon which the offer is based. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

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 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 1060

An act to add Section 25157.3 to, and to repeal and add Section 25117.5 of, the Health and Safety Code, relating to infectious waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 25117.5 of the Health and Safety Code is repealed.

SEC. 2. Section 25117.5 is added to the Health and Safety Code, to read:

25117.5. (a) "Infectious waste" means:

(1) Laboratory wastes, including cultures of etiologic agents, which pose a substantial threat to health due to their volume and virulence.

(2) Pathologic specimens, including human or animal tissues, blood elements, excreta, and secretions which contain etiologic agents, and attendant disposable fomites.

(3) Surgical specimens, including human or animal parts and tissues removed surgically or at autopsy which contain etiologic agents, and attendant disposable fomites.

(4) Equipment, instruments, utensils, and other disposable materials which are likely to transmit etiologic agents from the rooms of humans, or the enclosures of animals, which have been isolated because of suspected or diagnosed communicable disease.

(5) Human dialysis waste materials including arterial lines and dialyzate membranes.

(6) Carcasses of animals infected with etiologic agents which may present a substantial hazard to public health if improperly managed.

(7) Any other material which, in the determination of the facility infection control staff, presents a significant danger of infection because it is contaminated with, or may reasonably be expected to be contaminated with, etiologic agents.

(b) As used in this section, "etiologic agent" means a type of microorganism, helminth, or virus which causes, or significantly contributes to the cause of, increased morbidity or mortality of human beings.

SEC. 3. Section 25157.3 is added to the Health and Safety Code, to read:

25157.3. The state department shall adopt and develop emergency regulations for the management of infectious waste as

hazardous waste within 90 days after the effective date of this section. The regulations shall be deemed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare.

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 facilitate the orderly administration of infectious waste disposal management, it is necessary that this act take immediate effect.

CHAPTER 1061

An act to add Section 6555.5 to the Elections Code, relating to elections.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 6555.5 is added to the Elections Code, to read:

6555.5. If the number of signatures affixed to an in-lieu filing fee petition filed pursuant to Section 6555 is 100 or more, the clerk may use a random sampling technique for verification of the signatures. If a random sampling technique is used and the number of signatures on a petition is 100 or more but less than 2,000, the random sampling shall include an examination of 100 signatures. If the number of signatures on a petition is more than 2,000, the random sampling shall include an examination of 5 percent of the signatures. Upon completion of the verification of signatures in the sample, the percentage of signatures which are valid shall be applied and projected to the total number of signatures submitted.

CHAPTER 1062

An act to add Section 30794 to the Streets and Highways Code, relating to toll bridges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 30794 is added to the Streets and Highways Code, to read:

30794. (a) The department shall not establish exclusive or preferential use of lanes on the new Dumbarton Bridge and its approaches for high-occupancy vehicles.

(b) For the purposes of this section, the new Dumbarton Bridge shall be considered that portion of State Highway Route 84 between the new Dumbarton Bridge Toll Plaza on the east side of the bay and the intersection of University Avenue on the west side of the bay.

(c) For the purposes of this section, the approaches are all of the following:

(1) That portion of State Highway Route 84 between State Highway Route 101 and the bridge on the west side of the bay, known as the "Route 84 connection."

(2) That portion of University Avenue between Kavanaugh Drive and State Highway Route 84, known as the "University Avenue connection."

(3) That roadway, known as the Marsh Road connection, sometimes called the Northerly Connector, to be built from the intersection of Haven Avenue and Marsh Road, proceeding in an easterly direction to State Highway Route 84, extending along a 100-foot wide right-of-way, formerly subject to an easement held by the San Francisco Water Department.

(4) That portion of State Highway Route 84 between State Highway Route 17 and the bridge on the east side of the bay.

(d) If there are at least five toll gates, nothing in this section shall prohibit the reduction or elimination of toll charges for motor vehicles with three or more persons or prohibit the installation and exclusive or primary use of one toll gate and of up to 1200 feet of one lane leading to the toll gate, including the roadway length required for a transition prior to the commencement of the lane, for the exclusive or preferential use of high-occupancy vehicles.

(e) Notwithstanding subdivision (a), an exclusive or preferential lane in a particular direction may be designated over portions of the approaches described in paragraphs (1), (2), and (3) of subdivision (c), except that:

(1) With respect to the State Highway Route 84 connection, a lane may be designated in a particular direction only in those segments of the approach which satisfy the following conditions:

(A) For the segment between State Highway Route 101 and a point between Hamilton Avenue and the Southern Pacific Railroad tracks, there would remain at least two nonexclusive, nonpreferential lanes in that direction.

(B) For the segment between a point between Hamilton Avenue and the Southern Pacific Railroad tracks and the proposed interchange with University Avenue, there would remain at least one nonexclusive, nonpreferential lane in that direction.

(2) With respect to the University Avenue connection, a lane may be designated in a particular direction only in those segments of the approach which satisfy the following conditions:

(A) For the segment from Kavanaugh Drive to a point approximately 500 feet southwest of the Southern Pacific Railroad tracks, there would remain at least two nonexclusive, nonpreferential lanes in that direction.

(B) For the segment from a point approximately 500 feet southwest of the Southern Pacific Railroad tracks to State Highway Route 84, there would remain at least one nonexclusive, nonpreferential lane in that direction.

(3) With respect to the Marsh Road connection, a lane may be designated only if there remains at least one nonexclusive, nonpreferential lane in that direction.

In the application of this subdivision, the calculation of the number of lanes shall not include right or left turn lanes or storage lanes.

(f) Notwithstanding subdivision (a), a lane may be designated as an exclusive or preferential lane, in the east bound direction only, from the University Avenue interchange to a point 600 feet east of the University Avenue interchange, provided that over the 600 foot interval there also exists another lane to accommodate traffic coming from the direction of the Willow Road interchange and another lane to accommodate traffic turning onto east bound State Highway Route 84 from University Avenue.

(g) The use of any lane designated as an exclusive or preferential lane pursuant to this section shall be restricted to high-occupancy vehicles during peak commute hours only. "Peak commute hours" are those periods during the day so designated by the Department of Transportation, except that peak commute hours shall not include any time between midnight and 6 a.m., between 9 a.m. and 3 p.m., and between 6 p.m. and midnight and shall not include any time on Saturdays, Sundays, or holidays.

(h) As used in this section, " high-occupancy vehicle" means any vehicle containing three or more persons.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The new Dumbarton Bridge is nearing completion and it is necessary that this act take effect before the bridge is completed so that money will not be needlessly expended to construct and maintain exclusive or preferential use of lanes for high-occupancy vehicles. It is thus necessary that this act take effect immediately.

CHAPTER 1063

An act to amend Section 34561 of, to repeal Sections 34566 and 34567 of, and to repeal and add Section 34564 to, the Food and Agricultural Code, and to add Chapter 12.6 (commencing with Section 565) to Title 13 of Part 1 of the Penal Code, relating to dairy equipment.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 34561 of the Food and Agricultural Code is amended to read:

34561. Except as otherwise provided in this article, every person that finds or receives any container, cabinet, or other dairy equipment which is marked with a brand which is registered pursuant to this chapter shall, return it to the owner or his or her agent. If the finder is unable to locate the owner or his or her agent, he or she shall, notify the director in writing that he or she has in his or her possession the container, cabinet, or other dairy equipment and particularly describe in the notice the trademark or brand which is upon the container, cabinet, or other dairy equipment.

SEC. 2. Section 34564 of the Food and Agricultural Code is repealed.

SEC. 3. Section 34564 is added to the Food and Agricultural Code, to read:

34564. An "unauthorized person" with respect to possession of containers (including milk cases), cabinets, or other dairy equipment marked with a brand that is registered pursuant to this chapter includes any person in possession of this equipment except the following:

(a) The brand registrant or owner.

(b) A person in possession in compliance with the provisions of Sections 34561 or 34562.

(c) A person who, with the consent of the brand registrant or any other authorized person, has temporary possession of branded containers (including milk cases) as a result of the purchase of milk or milk products packaged and transported in the containers.

As to any containers (including milk cases), cabinets, or other dairy equipment marked with a brand registered pursuant to this chapter, the following acts are punishable under the provisions of Chapter 12.6 (commencing with Section 565) of Title 13 of Part 1 of the Penal Code:

(a) Possession or use of the branded containers, cabinets, or other dairy equipment by an unauthorized person.

(b) Obliteration of the registered brand on the containers, cabinets or other dairy equipment, except by the owner thereof or

the brand registrant.

SEC. 4. Section 34566 of the Food and Agricultural Code is repealed.

SEC. 5. Section 34567 of the Food and Agricultural Code is repealed.

SEC. 6. Chapter 12.6 (commencing with Section 565) is added to Title 13 of Part 1 of the Penal Code, to read:

CHAPTER 12.6. CRIMES INVOLVING BRANDED CONTAINERS, CABINETS, OR OTHER DAIRY EQUIPMENT

565. It is a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or both, for an unauthorized person to possess or use, or to obliterate or destroy the brand registration upon, containers (including milk cases), cabinets, or other dairy equipment, which have a value of four hundred dollars ($400) or less, when the containers, cabinets, or other dairy equipment are marked with a brand that is registered pursuant to Chapter 10 (commencing with Section 34501) of Part 1 of Division 15 of the Food and Agricultural Code. "Unauthorized person" shall have the meaning of that term as defined in Section 34564 of the Food and Agricultural Code.

566. It is a felony, punishable by a fine not exceeding one thousand five hundred dollars ($1,500), or by imprisonment, or both, for an unauthorized person to possess or use, or to obliterate or destroy the brand registration upon, containers (including milk cases), cabinets, or other dairy equipment, which have a value in excess of four hundred dollars ($400), when the containers, cabinets, or other dairy equipment are marked with a brand that is registered pursuant to Chapter 10 (commencing with Section 34501) of Part 1 of Division 15 of the Food and Agricultural Code. "Unauthorized person" shall have the meaning of that term as defined in Section 34564 of the Food and Agricultural Code.

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 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 1064

An act to amend Sections 17065, 17066, 17068, 17092, 20755, and 21283.5 of, and to add Section 17001.5 to, the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 17001.5 is added to the Food and Agricultural Code, to read:

17001.5. For the purpose of this chapter, "estray" means any impounded or seized bovine animal, horse, mule, sheep, swine, or burro whose owner is unknown or cannot be located.

SEC. 2. Section 17065 of the Food and Agricultural Code is amended to read:

17065. If the owner is not found, and the estimated value of the animal exceeds two hundred twenty-five dollars ($225), the director shall cause a notice of the taking up of the animal to remain posted for a period of 14 days on a bulletin board in each office of the Bureau of Livestock Identification. In addition to posting the notice, the director shall periodically publish a list of the brands and descriptions of the branded animals and descriptions of the unbranded animals in the classified section of a livestock industry publication which is in general circulation throughout the State of California.

SEC. 3. Section 17066 of the Food and Agricultural Code is amended to read:

17066. If the estimated value of the animal is less than two hundred twenty-five dollars ($225) and a notice is posted for five days on a bulletin board in each office of the Bureau of Livestock Identification, the director may cause the sale of the animal at a public sale and hold the proceeds as provided in Article 4 (commencing with Section 17091) of this chapter.

SEC. 4. Section 17068 of the Food and Agricultural Code is amended to read:

17068. Any person that claims ownership in the animal may, at any time, but not later than 14 days after the first posting of notice, file his or her proofs of ownership with the director and the director shall proceed to hear and determine the claim of ownership.

SEC. 5. Section 17092 of the Food and Agricultural Code is amended to read:

17092. If after 14 days from the date of the first posting of notice no satisfactory proof of ownership of the animal has been made, or if the owner fails or refuses to pay all expenses which were incurred, the director shall sell the animal at public sale.

All sales which are made pursuant to this chapter convey a good and valid title to the purchaser. The former owner of the animal so

sold is thereafter barred from all right to recover it.

SEC. 6. Section 20755 of the Food and Agricultural Code is amended to read:

20755. The owner of a recorded brand may, on or before April 30th of any year, pay in advance to the bureau a sum which is a multiple of twenty-five dollars ($25). The payment entitles him or her to use the brand for any number of years, but not to exceed 10 years, at the rate of twenty-five dollars ($25) per year from and after April 1st of that year. If the advance payment is made, annual renewals for each of the years within the period for which advance payment has been made are not required.

SEC. 7. Section 21283.5 of the Food and Agricultural Code is amended to read:

21283.5. Except as otherwise provided in this article, on all private treaty transaction inspections, as defined in Section 20026, regardless of destination, the fee of seventy-five cents ($0.75) shall be paid at the point of inspection for each animal which is inspected.

This section shall remain in effect only until June 30, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1984, deletes or extends that date.

CHAPTER 1065

An act to add and repeal Section 42237.8 of the Education Code, relating to school districts.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 42237.8 is added to the Education Code, to read:

42237.8. (a) Any high school district whose revenue limit per unit of average daily attendance was recomputed pursuant to Section 42237.7 and which has a component elementary district that voted to withdraw its 7th and 8th grade program from the high school district effective in the 1982–83 fiscal year, or any fiscal year thereafter, shall have its revenue limit per unit of average daily attendance recomputed pursuant to this section.

(b) The county superintendent of schools having jurisdiction shall, for the fiscal year for which the withdrawal of the 7th and 8th grade program becomes effective, make the following adjustment to the revenue limit per unit of average daily attendance of the high school district after the calculation of the annual inflation increase to the revenue limit pursuant to Section 42238. For the purposes of this calculation, the prior fiscal year shall mean the fiscal year prior to the fiscal year in which the reorganization becomes effective.

(1) Subtract the revenue limit per unit of average daily attendance for the prior fiscal year of the elementary district withdrawing its 7th and 8th grade program from the revenue limit per unit of average daily attendance of the high school district for the prior fiscal year.

(2) Multiply the difference determined in paragraph (1) by the number of units of average daily attendance generated in the high school district in the prior fiscal year by students attending grades 7 and 8 who resided within the boundaries of the elementary district withdrawing the 7th and 8th grade program.

(3) Divide the product determined in paragraph (2) by the second principal apportionment units of average daily attendance for the prior fiscal year in the high school district, exclusive of the average daily attendance generated in the high school district in the prior fiscal year by pupils attending grades 7 and 8 who resided within boundaries of the elementary district withdrawing the 7th and 8th grade program. For the purposes of this paragraph, the second principal apportionment units of average daily attendance shall exclude all concurrently enrolled pupils attending classes for adults or regional occupational centers or programs.

(4) The amount per unit of average daily attendance determined pursuant to paragraph (3) shall be a permanent addition to the revenue limit per unit of average daily attendance of the high school district determined pursuant to Section 42238.

(c) 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. This act will become effective January 1, 1983, pursuant to Section 8 of Article IV of the Constitution. However, it is the intent of the Legislature to make changes in state apportionments to school districts in the 1982–83 fiscal year. Therefore, this act shall be deemed operative for the entire 1982–83 fiscal year as though it had been enacted into law and become effective July 1, 1982. The Superintendent of Public Instruction and other public officers may, for such purposes, take all necessary steps to effect the midfiscal year transition involved, including adjusting allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund.

CHAPTER 1066

An act to amend Sections 10270.98 and 10498 of the Insurance Code, relating to insurance.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 10270.98 of the Insurance Code is amended to read:

10270.98. Group disability policies may provide, among other things, that the benefits payable thereunder are subject to reduction if the individual insured has any other coverage (other than individual policies or contracts) providing hospital, surgical or medical benefits, whether on an indemnity basis or a provision of service basis, resulting in such insured being eligible for more than 100 percent of the covered expenses.

Except as permitted by this section and by Section 10323, 10369.5, 10369.6, or 11515.5, and except in the case of group practice prepayment plan contracts which do not provide for coordination of benefits, to the extent they provide for a reduction of benefits on account of other coverage with respect to emergency services that are not obtained from providers that contract with the plan, no group or individual disability insurance policy or service contract issued by nonprofit hospital service plans operating under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 shall limit payment of benefits by reason of the existence of other insurance or service coverage.

The policy provisions authorized by this section shall contain a provision that payments of funds may be made directly between insurers and other providers of benefits. Such policy provisions shall also contain a provision that if benefits are provided in the form of services rather than cash payments the reasonable cash value of each service rendered shall be deemed to be both an allowable expense and a benefit paid. The reasonable cash value of any contractual benefit provided to the insured in the form of service rather than cash payment by or through any hospital service organization or medical service organization or group-practice prepayment plan shall be deemed an expense incurred by the insured for such service, whether or not actually incurred, and the liability of the insurer shall be the same as if the insured had not been entitled to any such service benefit, unless the policy contains a provision authorized by Section 10323, 10369.5 or 10369.6 in the case of an individual disability policy, or by this section, in the case of a group disability policy.

This section shall not be construed to require that benefits payable under group disability policies be subject to reduction by the benefit amounts payable under Chapter 3 (commencing with Section 2800) of Part 2 of Division 1 of the Unemployment Insurance Code.

The provisions of this section, and all regulations adopted pursuant thereto pertaining to coordination of benefits with other group disability benefits, shall apply to all employers, labor-management trustee plans, union welfare plans (including those established in conformity with 29 U.S.C. 186), employer organization plans or employee benefit organization plans, health care service plan contracts, pursuant to regulations adopted by the Commissioner of

Corporations which shall be uniform with those issued under this section for those plans that elect to coordinate benefits, group practice, individual practice and any other prepayment coverage for medical or dental care or treatment not otherwise subject to the provisions of this section whenever such plan, contract or practice provides hospital, surgical, medical or dental benefits to employees or agents who are also covered under one or more additional group disability policies which are subject to this section or health care service plans.

SEC. 2. Section 10498 of the Insurance Code is amended to read:

10498. An applicant for a certificate of exemption must comply with, and the possessor of a certificate of exemption is subject to, the following provisions of this code:

Sections 1 to 41, inclusive;
Chapter 1, Part 1, Division 1;
Chapter 2, Part 1, Division 1;
Article 1, Chapter 6, Part 1, Division 1;
Article 3, Chapter 6, Part 1, Division 1;
Chapter 9, Part 1, Division 1;
Sections 10110, 10111, 10112 and 10114;
Article 4, Chapter 1, Part 2, Division 1;
Article 6, Chapter 1, Part 2, Division 1;
Article 8, Chapter 1, Part 2, Division 1;
Article 9, Chapter 1, Part 2, Division 1;
Article 14, Chapter 1, Part 2, Division 1;
Article 15, Chapter 1, Part 2, Division 1;
Article 17, Chapter 1, Part 2, Division 1;
Article 1, Chapter 2, Part 2, Division 1;
Article 2, Chapter 2, Part 2, Division 1;
Article 3, Chapter 2, Part 2, Division 1;
Article 4, Chapter 2, Part 2, Division 1;
Article 7, Chapter 2, Part 2, Division 1;
Article 2, Chapter 1, Part 2, Division 2;
Article 4, Chapter 1, Part 2, Division 2;
Article 5, Chapter 1, Part 2, Division 2;
Section 10270.98;
Chapter 3, Part 2, Division 2;
Article 1, Chapter 5, Part 2, Division 2;
Division 3.

Applicants for and possessors of certificates of exemption not organized or incorporated under the laws of this State in lieu of meeting the requirements of Article 7, Chapter 2, Part 2, Division 1, and Articles 1, 2, 4, 5, Chapter 1, Part 2, Division 2, shall conform to such reasonable investment standards as the commissioner prescribes.

CHAPTER 1067

An act to amend Sections 25111 and 25801 of, to add Section 25805 to, and to repeal and add Section 25804 of, the Public Resources Code, and to amend Sections 40016 and 40182 of, to add Section 40025 to, and to repeal Article 2 (commencing with Section 40031) of Chapter 2 of Part 19 of Division 2 of, the Revenue and Taxation Code, relating to energy surcharges.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 25111 of the Public Resources Code is amended to read:

25111. "Account" means the Energy Resources Programs Account.

SEC. 2. Section 25801 of the Public Resources Code is amended to read:

25801. There is in the General Fund in the State Treasury the Energy Resources Programs Account.

SEC. 3. Section 25804 of the Public Resources Code is repealed.

SEC. 4. Section 25804 is added to the Public Resources Code, to read:

25804. All references in this division or any other provision of law to the State Energy Resources Conservation and Development Special Account shall be deemed references to the Energy Resources Programs Account.

SEC. 5. Section 25805 is added to the Public Resources Code, to read:

25805. On July 1, 1983, all funds in the State Energy Resources Conservation and Development Reserve Account shall be transferred to the Energy Resources Programs Account.

SEC. 6. Section 40016 of the Revenue and Taxation Code is amended to read:

40016. (a) A surcharge is imposed on the consumption in this state of electrical energy purchased from an electric utility on and after January 1, 1975, at the rate of one-tenth mill ($0.0001) per kilowatt-hour, or at the rate fixed pursuant to subdivision (b).

(b) On and after July 1, 1983, the surcharge rate is that fixed by the State Board of Equalization which is in effect on that date, except as the Legislature may lower that rate.

SEC. 7. Section 40025 is added to the Revenue and Taxation Code, to read:

40025. The rate fixed by the board pursuant to subdivision (b) of Section 40016 shall apply with respect to billing periods beginning on or after July 1, 1983.

SEC. 8. Article 2 (commencing with Section 40031) of Chapter 2

of Part 19 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 40182 of the Revenue and Taxation Code is amended to read:

40182. All money deposited in the Energy Resources Surcharge Fund under this part shall upon order of the Controller be drawn therefrom and transferred to pay the refunds authorized by this part. The balance shall be transferred to the Energy Resources Programs Account, which is hereby created in the General Fund.

It is the intent of the Legislature that the funds in the Energy Resources Programs Account be used for ongoing energy programs and energy projects deemed appropriate by the Legislature, including, but not limited to, the activities of the State Energy Resources Conservation and Development Commission.

Notwithstanding any other provisions of law to the contrary, all appropriations from the Energy Resources Programs Account shall be made by the annual Budget Act.

SEC. 10. The provisions of this act shall become operative on July 1, 1983.

CHAPTER 1068

An act to amend Sections 3 and 18 of Chapter 1086 of the Statutes of 1970, relating to tide and submerged lands.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 3 of Chapter 1086 of the Statutes of 1970 is amended to read:

Sec. 3. The city shall establish the Humboldt Bay Fund in such manner as may be approved by the State Lands Commission, and the city shall deposit therein all moneys received directly from, or indirectly attributable to, the tide and submerged lands granted to the city. An annual statement of financial condition and operations, to conform with such requirements as the State Lands Commission may prescribe, shall be submitted to the State Lands Commission by the city on or before September 30th of each year for the preceding fiscal year. In furtherance of its management and administration over granted tide and submerged lands, the State Lands Commission shall audit, or cause to be audited, the operations and all books and records of the city. Further, the city shall prepare and submit to the State Lands Commission, for its review and approval, an annual budget with respect to all revenues and expenditures regarding tide and submerged lands granted to the city. All moneys received from the Controller pursuant to Section 18 of this act shall be deposited in

the Humboldt Bay Fund and may be used by the city for the purposes for which revenues accruing from or out of the use of the granted tidelands may be used pursuant to the provisions of this act.

Prior to June 30, 1979, and prior to June 30 of each succeeding year, the city shall pay to the Controller a sum that is not less than 15 percent of the amount of the money deposited by the city into the Humboldt Bay Fund during the preceding fiscal year, after deducting from the fund the principal and interest payments required by the currently outstanding 1973 Municipal Harbor Improvement Revenue Bond issue, and after the credit for reverted funds provided for in Section 18 of this act. Moneys received from the Controller pursuant to Section 18 of this act shall not be included in the calculation of the amount deposited into the Humboldt Bay Fund. Payments made to the Controller pursuant to this section shall be in lieu of all obligations incurred by the city pursuant to this section as amended by Section 2 of Chapter 1252 of the Statutes of 1971 and prior to the amendment of this section during the 1977–78 Regular Session of the Legislature.

In the event the city fails to make any payment required to be made hereby for any reason whatsoever, the State Board of Equalization, upon the order of the Controller, shall deduct the amount of that payment from the sales and use taxes to be paid to the city thereafter pursuant to Section 7204 of the Revenue and Taxation Code and shall pay the same to the Controller.

All payments made by the city and the State Board of Equalization shall be considered as oil revenues and dry gas revenues payable to the state pursuant to Chapter 138 of the Statutes of 1964, First Extraordinary Session, during the year they are received.

For the purposes of Section 7 of this act, such amounts paid to the Controller by the city shall be considered as current and accrued operating costs and expenditures directly related to the operation and maintenance of tideland trust activities.

SEC. 2. Section 18 of Chapter 1086 of the Statutes of 1970 is amended to read:

Sec. 18. The sum of seven hundred fifty thousand dollars ($750,000), or so much thereof as may be necessary, is hereby appropriated to the General Fund from the oil and dry gas revenues payable to the state under Chapter 138 of the Statutes of 1964, First Extraordinary Session, pursuant to Section 6217 of the Public Resources Code during the 1978–79 fiscal year, and shall be transferred by the Controller to the General Fund during the 1978–79 fiscal year immediately prior to making the allocation to the California Water Fund pursuant to subdivision (b) of Section 6217 and after making the allocations pursuant to subdivision (a) of Section 6217. The sum thus transferred to the General Fund is hereby appropriated to the Controller, who shall pay that sum to the Humboldt Bay Fund as follows: in the 1978–79 fiscal year and each fiscal year thereafter, a sum equal to 50 percent of the sum expended by the City of Eureka during each fiscal year in the prosecution or

defense of any action or proceeding involving the title to, or the boundaries of, tidelands or submerged lands granted to the City of Eureka by the Legislature along the Humboldt Bay waterfront; and during the 1978–79 fiscal year, the additional sum of two hundred fifty thousand dollars ($250,000) from the seven hundred fifty thousand dollars ($750,000) appropriated by this section.

However, notwithstanding the foregoing, any funds in excess of the sum of two hundred thousand dollars ($200,000) remaining in the General Fund pursuant to this section on the effective date of the amendment of this section at the 1981–82 Regular Session of the Legislature which have not been paid to the Humboldt Bay Fund pursuant to this section shall no longer be available in the General Fund for the purposes of this section, and shall on that date be deemed to be oil and dry gas revenues payable by the Controller to the state under Chapter 138 of the Statutes of 1964, First Extraordinary Session, pursuant to Section 6217 of the Public Resources Code. Commencing with the payment required to be made prior to June 30, 1983, the City of Eureka shall receive a credit against the amount required to be paid to the Controller pursuant to Section 3 of this act for the amount of funds which revert from the General Fund pursuant to the provisions of this section, and the city shall not thereafter be required to make any payment to the Controller pursuant to Section 3 of this act until the city receives a credit for the entire amount so reverted from the General Fund.

CHAPTER 1069

An act to amend Sections 84200 and 84215 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 84200 of the Government Code is amended to read:

84200. (a) All candidates and committees shall file campaign statements no later than July 31 and January 31 if they have made or received contributions or made expenditures during the six calendar months before the closing date of such statements; provided, that a candidate who, during the past six calendar months has filed a declaration pursuant to Section 84205, shall not be required to file a statement. All elected officers shall file campaign statements no later than July 31 and January 31; provided that this requirement does not apply to elected officers whose salaries are less than one hundred dollars ($100) a month or to judges, unless such elected officer or judge is a candidate or committee which makes or receives

contributions or makes expenditures during the applicable six-month period. Filers specified in subdivision (c) shall not file the campaign statement required by this subdivision for the six-month period in which an election referred to in subdivision (c) is held.

(b) In addition to the campaign statements required by subdivision (a), candidates, elected officers, controlled committees, and any committee formed primarily to support or oppose a candidate or a measure that has made or received contributions of five hundred dollars ($500) or more or made expenditures of five hundred dollars ($500) or more during the threshold periods specified below, and all other committees which, in an even-numbered year, have made or received contributions of five hundred dollars ($500) or more or made expenditures of five hundred dollars ($500) or more during the threshold periods specified below, or, in an odd-numbered year, have made contributions or independent expenditures of five hundred dollars ($500) or more during the threshold periods specified below shall file campaign statements on the following dates:

(1) No later than March 22, with a five hundred dollar ($500) threshold period of January 1 through March 17.

(2) No later than 12 days before the first Tuesday after the first Monday in June, with a five hundred dollar ($500) threshold period of March 18 through 17 days before the first Tuesday after the first Monday in June.

(3) September 22, with a five hundred dollar ($500) threshold period of July 1 through September 17.

(4) Twelve days before the first Tuesday after the first Monday in November, with a five hundred dollar ($500) threshold period of September 18 through 17 days before the first Tuesday after the first Monday in November.

Notwithstanding the above, elected officers, candidates, and their controlled committees and committees formed primarily to support or oppose a candidate or a ballot measure are not required to file campaign statements pursuant to this subdivision during any six-month period (from January 1 to June 30 or from July 1 to December 31) in which the candidate's office or the ballot measure is not to be voted on or in the case of an elected officer, when the elected officer is not a candidate for an office being voted on in a six-month period, unless they make contributions or expenditures of one hundred dollars ($100) or more to any other candidate, controlled committee, or committee formed primarily to support or oppose a candidate or ballot measure.

Filers specified in subdivision (c) shall not file the campaign statements required by this subdivision during the six months in which an election referred to in subdivision (c) is held.

Filers specified in subdivision (d) shall not file the campaign statements required by this subdivision until after the filing date for the campaign statement required by subdivision (d).

(c) If an election is held on a date other than the first Tuesday

after the first Monday in June, or the first Tuesday after the first Monday in November, candidates voted on in such elections, their controlled committees and committees formed or existing primarily to support or oppose such candidates or measures voted on in such election shall file campaign statements in connection with the election and shall also file the campaign statements required by subdivisions (a) and (b) for any six-month period in which such an election is not held. Statements filed in connection with such elections shall be filed no later than 40 days before the election, no later than 12 days before the election, and no later than 65 days after the election; provided, however, if a subsequent runoff election is held within 60 days of the first election, the postelection statement shall be filed 65 days after the runoff election. If, however, pursuant to this subdivision, a candidate or committee is required to file campaign statements in connection with a subsequent runoff resulting from that election which is held within 60 days of the first election, such statements shall be filed no later than 40 days prior to the first election (or March 22, if the first election is on the first Tuesday after the first Monday in June, or September 22, if the first election is on the first Tuesday after the first Monday in November) no later than 12 days prior to the first election, no later than 12 days prior to the runoff and no later than 65 days after the runoff election.

(d) Committees formed or existing primarily to support or oppose the qualification of a measure and proponents of a state measure shall file campaign statements not later than 35 days after the deadline for filing petitions or the date of notification that the measure has either qualified or failed to qualify, whichever is earlier. A committee filing pursuant to this subdivision shall not be required to file semiannual campaign statements under subdivision (a) until after the filing date for the campaign statement required by this subdivision.

SEC. 2. Section 84215 of the Government Code is amended to read:

84215. All candidates, elected officers, committees and proponents of state ballot measures except as provided in subdivision (e) shall file two copies of the campaign statements required by Section 84200 with the clerk of the county in which they are domiciled. A committee is domiciled at the address listed on its campaign statement unless it is domiciled outside California in which case its domicile shall be deemed to be Los Angeles County for the purpose of this section. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers, candidates for such offices, their controlled committees, committees formed or existing primarily to support or oppose such candidates or elected officers or statewide measures, and all other committees and filers not specified in subdivisions (b) through (e) below:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the Registrar-Recorder of Los Angeles County.

(3) Two copies with the Registrar of Voters of the City and County of San Francisco.

(b) Members of the Legislature or Board of Equalization, court of appeal justices, superior court judges, candidates for those offices, their controlled committees and committees formed or existing primarily to support or oppose such candidates or officeholders:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the clerk of the county with the largest number of registered voters in the districts affected.

(c) Elected officers in jurisdictions other than legislative districts, Board of Equalization districts or appellate court districts which contain parts of two or more counties, candidates for such offices, their controlled committees and committees formed or existing primarily to support or oppose candidates or measures in one such jurisdiction shall file the original and one copy with the clerk of the county with the largest number of registered voters in the jurisdiction.

(d) County elected officers, municipal court judges, candidates for such offices, their controlled committees and committees formed or existing primarily to support or oppose candidates or measures in any number of jurisdictions within one county, other than those specified in subdivision (e), shall file the original and one copy with the clerk of the county.

(e) City elected officers, candidates for city office, their controlled committees and committees formed or existing primarily to support or oppose candidates or measures in one city shall file the original and one copy with the clerk of the city. Such elected officers, candidates, and committees need not file with the clerk of the county in which they are domiciled.

(f) Notwithstanding the above, no committee, candidate, or elected officer shall be required to file more than the original and one copy, or two copies, of a campaign statement with any one county or city clerk or with the Secretary of State.

(g) If a committee is required to file campaign statements required by Section 84200 in places designated in subdivisions (d) and (e), it shall continue to file such statements in such places, in addition to any other places required by this title, until the end of the calendar year.

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 1070

An act to amend Section 68044 of the Education Code, relating to postsecondary education.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 68044 of the Education Code is amended to read:

68044. The governing boards shall adopt rules and regulations for determining a student's classification and for establishing procedures for review and appeal of that classification. The adopted rules and regulations shall include provisions requiring that the financial independence of a student classified as a nonresident seeking reclassification as a resident shall be included among the factors to be considered in the determination of residency.

The adopted rules and regulations shall, beginning the 1983–84 school year, exempt nonresident students who have been appointed to serve as graduate student teaching assistants, graduate student research assistants, or graduate student teaching associates on any campus of the University of California or the California State University, and who have been employed on a 0.49 or more time basis, from the requirement of demonstrating his or her financial independence under this section for purposes of reclassification as a resident.

A student shall be considered financially independent for purposes of this section if the applicant meets all of the following requirements: (a) has not and will not be claimed as an exemption for state and federal tax purposes by his or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application, (b) has not and will not receive more than seven hundred fifty dollars ($750) per year in financial assistance from his or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application, and (c) has not lived and will not live for more than six weeks in the home of his or her parent during the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application.

Other factors which may be considered in determining California residency shall be defined by the governing boards. In addition, the adopted rules and regulations shall include, but are not limited to, the evidence necessary to determine residence, procedures for obtaining residence information and procedures for administering oaths in connection with taking of testimony relative to residence. A district governing board may adopt rules and regulations which are

not inconsistent with those adopted by the Board of Governors of the California Community Colleges.

CHAPTER 1071

An act to add Section 4351.5 to the Civil Code, and to amend Section 26840.3 of the Government Code, relating to family law.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 4351.5 is added to the Civil Code, to read:

4351.5. (a) Notwithstanding the provisions of Section 4351, in proceedings under Sections 4450 and 4503, the superior court has jurisdiction to award reasonable visitation rights to a person who is a party to the marriage that is the subject of the proceeding with respect to a minor child of the other party to the marriage, if visitation by that person is determined to be in the best interests of the minor child.

(b) If a stepparent has petitioned or otherwise applied for an order of reasonable visitation rights pursuant to this section, the court shall set the matter of visitation rights for mediation. The purpose of the mediation proceeding shall be to effect a settlement of the issue of visitation rights of all parties. The mediator shall meet the minimum qualifications required of a counselor of conciliation as provided in Section 1745 of the Code of Civil Procedure.

(c) Mediation proceedings shall be held in private and shall be confidential, and all communications, verbal or written, from the parties to the mediator made in a proceeding pursuant to this section shall be deemed to be official information within the meaning of Section 1040 of the Evidence Code.

(d) The mediator shall have the authority to exclude counsel from participation in the mediation proceedings where, in the discretion of the mediator, exclusion of counsel is deemed by the mediator to be appropriate or necessary. The mediator shall have the duty to assess the needs and interests of the child involved in the controversy and shall be entitled to interview the child when the mediator deems such interview appropriate or necessary.

(e) The mediator may, consistent with local court rules, render a recommendation to the court as to the visitation of the child. The mediator may, in cases where the parties have not reached agreement as a result of the mediation proceeding, recommend to the court that an investigation be conducted pursuant to Section 4602, or that other action be taken to assist the parties to effect a resolution of the controversy prior to any hearing on the issues. The mediator may, in appropriate cases, recommend that mutual

restraining orders be issued, pending determination of the controversy, to protect the well-being of the child involved in the controversy. Any agreement reached by the parties as a result of the mediation shall be reported to the court and to counsel for the parties by the mediator on the day set for mediation or any time thereafter designated by the court.

(f) A natural parent who is not a party to the proceeding shall not be required to participate in the mediation proceedings; however, failure to participate shall be a waiver of that parent's right to object to any settlement reached by the other parties during mediation or to require a hearing on the matter.

(g) If the issue of visitation rights of all parties is not settled by agreement of all parties who participate in mediation, the mediator shall so inform the court in writing and the court shall set the matter of visitation rights for hearing. Each natural parent and the stepparent seeking visitation rights shall be given an opportunity to appear and be heard on that issue.

(h) Notice of mediation and of any hearing to be held pursuant to this section shall be given to the stepparent seeking visitation rights, to each of the parents of the child, and to the counsel of record of each of the parents in any proceeding under Section 4450 or 4503 with regard to their marriage. The notice shall be given by certified mail, return receipt requested, postage prepaid, to the last known address of each of the parents and his or her counsel.

(i) Any visitation right granted to a stepparent pursuant to this section shall not conflict with any visitation or custodial right of a natural or adoptive parent who is not a party to the proceeding.

SEC. 2. Section 26840.3 of the Government Code is amended to read:

26840.3. (a) The superior court in any county may, for the support of the family conciliation court or for conciliation and mediation services provided pursuant to Section 4607 of the Civil Code, or for mediation services provided pursuant to Section 4351.5 of the Civil Code, upon action of the board of supervisors to provide all space costs and indirect overhead costs from other sources, increase:

(1) The fee for filing a petition, except a joint petition filed pursuant to Section 4551 of the Civil Code, for dissolution of a marriage, legal separation, or nullity of a marriage, and the fee for a response to such a petition, by an amount not to exceed seventeen dollars ($17).

(2) The fee for issuing a marriage license, by an amount not to exceed five dollars ($5).

(3) The fee for issuing a marriage certificate pursuant to Section 4213 of the Civil Code, by an amount not to exceed five dollars ($5).

(b) The funds shall be paid to the county treasury and an amount equal thereto shall be used exclusively to pay the costs of maintaining the family conciliation court or conciliation and mediation services provided pursuant to Section 4607 or 4351.5 of the Civil Code.

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 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 1072

An act to amend Sections 690.16, 690.175, and 690.60 of the Code of Civil Procedure, and to amend Sections 1342, 4001, 4003, and 4552 of, and to add Section 1255.7 to, the Unemployment Insurance Code, and to repeal and add Section 11350.5 of the Welfare and Institutions Code, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 690.16 of the Code of Civil Procedure is amended to read:

690.16. Contributions by workers, payable to the Unemployment Compensation Disability Fund, and by employers, payable to the Unemployment Fund are exempt without filing a claim of exemption as provided in Section 690.50.

This section shall not be interpreted to preclude the application of Section 1255.7 of the Unemployment Insurance Code.

SEC. 2. Section 690.175 of the Code of Civil Procedure is amended to read:

690.175. State unemployment compensation benefits or extended duration benefits or federal-state extended benefits or unemployment compensation disability benefits, incentive payments provided by Division 2 (commencing with Section 5000) of the Unemployment Insurance Code, and payments to an individual under a plan or system established by an employer which makes provision for his employees generally, or for a class or group of his employees, for the purpose of supplementing unemployment compensation benefits. Such benefits or payments, prior to actual payment, shall be exempt without filing a claim of exemption, as provided in Section 690.50.

This section shall not be interpreted to preclude the application of Section 1255.7 of the Unemployment Insurance Code.

SEC. 3. Section 690.60 of the Code of Civil Procedure is amended to read:

690.60. 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 this chapter and Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code 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—

(1) A social security benefit, unemployment compensation, or a local public assistance benefit;

(2) A veterans' benefit;

(3) A disability, illness, or unemployment benefit, except that this subdivision shall not be interpreted to preclude the application of Section 1255.7 of the Unemployment Insurance Code;

(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) Such 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 such plan or contract arose;

(ii) Such 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—

(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; or

(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. 4. Section 1255.7 is added to the Unemployment Insurance Code, to read:

1255.7. (a) The Department of Social Services shall notify the director whether an individual filing a claim for unemployment compensation after October 1, 1982, owes child support obligations as defined under subdivision (g).

(b) Pursuant to Section 11350.5 of the Welfare and Institutions Code, the department shall deduct and withhold child support obligations as defined under subdivision (g) from any unemployment compensation payable to an individual who owes these obligations.

(c) Any amount deducted and withheld under subdivision (b)

shall be paid by the department to the Department of Social Services.

(d) Any amount deducted and withheld under subdivision (b) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the Department of Social Services.

(e) For purposes of subdivisions (a) through (d), "unemployment compensation" means any compensation payable under this division, except Part 2 (commencing with Section 2601), but including amounts payable by the department pursuant to an agreement under any federal unemployment compensation law.

(f) This section applies only if appropriate arrangements have been made for reimbursement by the Department of Social Services for the administrative costs incurred by the Employment Development Department.

(g) For purposes of this section, "child support obligations" means obligations which are being enforced pursuant to a plan described in Section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

SEC. 5. 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, except as provided by Section 1255.7. 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, and are exempt from attachment and execution pursuant to Sections 690.175 and 690.18 of the Code of Civil Procedure, except as provided by Section 1255.7. 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. 6. Section 4001 of the Unemployment Insurance Code is amended to read:

4001. The purpose of this part is to provide that payment of extended compensation, in accordance with the "Federal-State Extended Unemployment Compensation Act of 1970", as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), shall be made, for any week of unemployment which begins in the individual's eligibility period, to individuals who have exhausted all rights to regular compensation under this division and who have no rights to regular compensation with respect to such week under this division or any other state unemployment compensation law or to compensation under any other federal law. For purposes of this section, an individual shall have exhausted his rights to regular compensation under any state law (A) when no

payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on wage credits for his base period, or (B) when his rights to such compensation have terminated by reason of the expiration of the benefit year with respect to which such rights existed. Except where inconsistent with the provisions of the "Federal-State Extended Unemployment Compensation Act of 1970", as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), the terms and conditions of this division which apply to claims for regular compensation and to the payment thereof shall apply to claims for extended compensation and to the payment thereof under such federal act. This part shall be operative on September 25, 1982, and extended compensation shall be payable as provided by the Federal-State Extended Unemployment Compensation Act of 1970, as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), subject to limitations provided by that act, with respect to weeks of unemployment and extended benefit periods beginning after September 25, 1982. The provisions of this section in effect prior to the amendments by the Omnibus Budget Reconciliation Act of 1981 shall continue to apply to weeks beginning after November 28, 1970, and before September 25, 1982.

SEC. 7. Section 4003 of the Unemployment Insurance Code is amended to read:

4003. (a) The provisions and definitions of terms in the "Federal-State Extended Unemployment Compensation Act of 1970," as amended by the federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35), apply to this part. "Federal-state extended benefits" means benefits payable under this part.

(b) There is an "on" indicator for purposes of federal-state extended benefits for a week in which the rate of insured unemployment for that week and the immediately preceding 12 weeks equals or exceeds either of the following:

(1) One hundred twenty percent of the average of the rates for the corresponding 13-week period ending in each of the preceding two calendar years, and equals or exceeds 5 percent.

(2) Six percent.

(c) There is an "off" indicator for a week in which the rate of insured unemployment for that week and the immediately preceding 12 weeks is less than 6 percent and also less than either of the following:

(1) One hundred twenty percent of the average of the rates for the corresponding 13-week period ending in each of the preceding two calendar years.

(2) Five percent.

(d) For purposes of this section, the rate of insured unemployment for a 13-week period shall be determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close

of the period. This section shall be effective with respect to compensation for weeks of unemployment after September 25, 1982. The provisions of this section in effect prior to that date shall continue to apply to weeks after March 30, 1977, but prior to September 25, 1982.

(e) The indicators specified in subdivisions (b) and (c) shall be operative only if mandated or permitted by federal law. Any amendments to the Federal-State Extended Unemployment Compensation Act of 1970, enacted before January 1, 1983, which mandate or permit any reduction in the insured unemployment rate indicator described in this section shall be operative on the effective date of the amendment.

SEC. 8. Section 4552 of the Unemployment Insurance Code is amended to read:

4552. An unemployed individual is eligible to receive federal-state extended benefits with respect to any week only if the director finds that:

(a) An extended compensation account has been established for him or her.

(b) The week is within an extended benefit period and his or her eligibility period.

(c) He or she meets the eligibility requirements of Part 1 (commencing with Section 100) of this division, except those excluded under subdivision (b) of Section 4002.

(d) He or she is not subject to disqualification for normal benefits under any provision of Part 1 (commencing with Section 100) of this division. If the individual has been subject to disqualification under subdivision (b) of Section 1257, he or she has satisfied subdivision (b) of Section 1260 and, during a week following the first week of disqualification, has done either of the following:

(1) Performed service in bona fide employment during a week on a full-time basis.

(2) Performed service in bona fide employment during a week from which service he or she earned remuneration at least equal to his or her weekly benefit amount.

(e) With respect to compensation payable to any individual for any week beginning after September 25, 1982, he or she had earnings from employment subject to the provisions of this division which exceed 40 times his or her most recent weekly benefit amount in the base period in which he or she exhausted all rights to regular compensation.

SEC. 9. Section 11350.5 of the Welfare and Institutions Code is repealed:

SEC. 10. Section 11350.5 is added to the Welfare and Institutions Code, to read:

11350.5. (a) To the extent required by Section 454 of the Social Security Act, the following actions shall be taken in order to enforce child support obligations which are not being met. Whenever a child support judgment has been rendered by a court of this state against

a support judgment debtor who is entitled to any unemployment compensation as provided for in Division 1 (commencing with Section 100), except for Part 2 (commencing with Section 2601), of the Unemployment Insurance Code, the district attorney may file with the State Department of Social Services certification of support judgment or support order verifying under penalty of perjury that there is or has been an order for support with sums overdue thereunder. The department shall periodically present and update, by deletions and additions, a list of the certified support judgments to the Employment Development Department.

(b) Notwithstanding any other provision of law, the Employment Development Department shall withhold the amounts specified below from the judgment debtor's unemployment compensation and shall periodically forward them to the State Department of Social Services for distribution to the appropriate certifying county. The amount withheld shall be equal to 25 percent of each weekly unemployment compensation payment, rounded down to the nearest whole dollar, which is due the support judgment debtor identified on the certified list. However, the amount withheld may be reduced to a lower whole dollar amount through a written agreement between the judgment debtor and district attorney's office or through an order of the court. The State Department of Social Services shall resolve any claims for refunds of amounts overwithheld by the Employment Development Department.

(c) No later than the time of the first withholding, the judgment debtor shall be notified of all of the following:

(1) That his or her unemployment compensation benefits have been reduced by a court-ordered child support judgment pursuant to the provisions of this section.

(2) The address and phone number of the district attorney's office which submitted the certificate of support judgment.

(d) The judgment debtor may ask the appropriate court for an equitable division of the judgment debtor's unemployment compensation income to take into account the needs of all the persons the judgment debtor is required to support.

(e) The State Department of Social Services and the Employment Development Department shall enter into any agreements necessary to carry out the provisions of this section.

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 this act implements a federal law or regulation and involves only "costs mandated by the federal government," as defined by Section 2206 of the Revenue and Taxation Code.

SEC. 12. An anticipated one million five hundred ninety-one thousand dollars ($1,591,000) in savings resulting from the implementation of Section 4 of this act shall be applied toward reducing the State General Fund expenditures (Item 5180-101-001 of

the Budget Act of 1982), when appropriated by the Legislature.

An anticipated one million seven hundred seventy-three thousand dollars ($1,773,000) in savings resulting from the implementation of Section 4 of this act shall be applied toward reducing the Federal Trust Fund expenditures (Item 5180-101-866 of the Budget Act of 1982), when appropriated by the Legislature.

SEC. 13. The sum of six hundred forty-one thousand dollars ($641,000) is hereby appropriated according to the following schedule:

(a) The sum of one hundred sixty thousand dollars ($160,000) is appropriated from the General Fund to the Department of Social Services in augmentation of Item 5180-001-001(a) of the Budget Act of 1982.

(b) The sum of four hundred eighty-one thousand dollars ($481,000) is appropriated from the Federal Trust Fund to the Department of Social Services for augmentation of Item 5180-001-866(a) of the Budget Act of 1982.

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 the necessity are:

The Federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) requires that California law be amended as proposed by this act. Unless California enacts this act to be operative not later than October 1, 1982, California's unemployment insurance program will be out of conformity with the mandates of federal law under Public Law 97-35. This would seriously disrupt California's economy by the imposition of burdensome federal taxes on California employers and imperil the payment of unemployment benefits by the denial of federal funds to pay for the administration of the payment of the benefits to unemployed claimants in California. In order to preserve California's unemployment insurance system and assure uninterrupted payment of unemployment benefits in the interest of the public peace, health, or safety, it is necessary that this act take effect immediately.

CHAPTER 1073

An act to amend Sections 1256, 1280, 3503, 3504, 3552, 3652, 4001, 4003, and 4552 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 1256 of the Unemployment Insurance Code is amended to read:

1256. An individual is disqualified for unemployment compensation benefits if the director finds that he or she left his or her most recent work voluntarily without good cause or that he or she has been discharged for misconduct connected with his or her most recent work.

An individual is presumed to have been discharged for reasons other than misconduct in connection with his or her work and not to have voluntarily left his or her work without good cause unless his or her employer has given written notice to the contrary to the director within five days after the termination of service, setting forth facts sufficient to overcome the presumption. The presumption provided by this section is rebuttable.

An individual whose employment is terminated under the compulsory retirement provisions of a collective-bargaining agreement to which the employer is a party, shall not be deemed to have left his or her work without good cause.

An individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to accompany his or her spouse to a place from which it is impractical to commute to the employment.

SEC. 2. Section 1280 of the Unemployment Insurance Code is amended to read:

1280. (a) An individual's weekly benefit amount is the amount appearing in column B in the following applicable table opposite that wage bracket in column A which contains the amount of wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest.

(b) For new claims filed with an effective date beginning on or after January 1, 1982, and prior to January 1, 1983, the following table shall be applicable under subdivision (a):

A *Amount of wages in highest quarter*	*B* *Weekly benefit amount*
$225.00– 688.99	30
689.00– 714.99	31
715.00– 740.99	32
741.00– 766.99	33
767.00– 792.99	34
793.00– 818.99	35
819.00– 844.99	36
845.00– 870.99	37
871.00– 896.99	38
897.00– 922.99	39
923.00– 948.99	40

949.00– 974.99	41
975.00–1,000.99	42
1,001.00–1,026.99	43
1,027.00–1,052.99	44
1,053.00–1,078.99	45
1,079.00–1,117.99	46
1,118.00–1,143.99	47
1,144.00–1,169.99	48
1,170.00–1,195.99	49
1,196.00–1,221.99	50
1,222.00–1,247.99	51
1,248.00–1,286.99	52
1,287.00–1,312.99	53
1,313.00–1,338.99	54
1,339.00–1,364.99	55
1,365.00–1,403.99	56
1,404.00–1,429.99	57
1,430.00–1,455.99	58
1,456.00–1,494.99	59
1,495.00–1,520.99	60
1,521.00–1,546.99	61
1,547.00–1,585.99	62
1,586.00–1,611.99	63
1,612.00–1,637.99	64
1,638.00–1,676.99	65
1,677.00–1,702.99	66
1,703.00–1,741.99	67
1,742.00–1,767.99	68
1,768.00–1,806.99	69
1,807.00–1,832.99	70
1,833.00–1,871.99	71
1,872.00–1,897.99	72
1,898.00–1,936.99	73
1,937.00–1,975 99	74
1,976.00–2,001.99	75
2,002.00–2,040 99	76
2,041.00–2,066.99	77
2,067.00–2,105.99	78
2,106.00–2,144.99	79
2,145.00–2,170.99	80
2,171.00–2,209.99	81
2,210.00–2,248.99	82
2,249.00–2,287.99	83
2,288.00–2,326.99	84
2,327.00–2,352.99	85
2,353.00–2,391.99	86
2,392.00–2,430.99	87
2,431.00–2,469.99	88
2,470.00–2,508.99	89

2,509.00–2,547.99	90
2,548.00–2,586.99	91
2,587.00–2,625.99	92
2,626.00–2,664.99	93
2,665.00–2,703.99	94
2,704.00–2,742.99	95
2,743.00–2,781.99	96
2,782.00–2,820.99	97
2,821.00–2,859.99	98
2,860.00–2,898.99	99
2,899.00–2,937.99	100
2,938.00–2,989.99	101
2,990.00–3,028.99	102
3,029.00–3,067.99	103
3,068.00–3,106.99	104
3,107.00–3,158.99	105
3,159.00–3,197.99	106
3,198.00–3,236.99	107
3,237.00–3,288.99	108
3,289.00–3,327.99	109
3,328.00–3,379.99	110
3,380.00–3,418.99	111
3,419.00–3,470.99	112
3,471.00–3,509.99	113
3,510.00–3,561.99	114
3,562.00–3,600.99	115
3,601.00–3,652.99	116
3,653.00–3,704.99	117
3,705.00–3,743.99	118
3,744.00–3,795.99	119
3,796.00–3,847.99	120
3,848.00–3,899.99	121
3,900.00–3,938.99	122
3,939.00–3,990.99	123
3,991.00–4,042.99	124
4,043.00–4,094.99	125
4,095.00–4,146.99	126
4,147.00–4,198.99	127
4,199.00–4,250.99	128
4,251.00–4,302.99	129
4,303.00–4,354.99	130
4,355.00–4,419.99	131
4,420.00–4,471.99	132
4,472.00–4,523.99	133
4,524.00–4,575.99	134
4,576.00–4,640.99	135
4,641.00 and over	136

(c) For new claims filed with an effective date beginning on or

after January 1, 1983, the following table shall be applicable under subdivision (a):

A *Amount of wages in highest quarter*	*B* *Weekly benefit amount*
$225.00– 688.99	30
689.00– 714.99	31
715.00– 740.99	32
741.00– 766.99	33
767.00– 792.99	34
793.00– 818.99	35
819.00– 844.99	36
845.00– 870.99	37
871.00– 896.99	38
897.00– 922.99	39
923.00– 948.99	40
949.00– 974.99	41
975.00–1,000.99	42
1,001.00–1,026.99	43
1,027.00–1,052.99	44
1,053.00–1,078.99	45
1,079.00–1,117.99	46
1,118.00–1,143.99	47
1,144.00–1,169.99	48
1,170.00–1,195.99	49
1,196.00–1,221.99	50
1,222.00–1,247.99	51
1,248.00–1,286.99	52
1,287.00–1,312.99	53
1,313.00–1,338.99	54
1,339.00–1,364.99	55
1,365.00–1,403.99	56
1,404.00–1,429.99	57
1,430.00–1,455.99	58
1,456.00–1,494.99	59
1,495.00–1,520.99	60
1,521.00–1,546.99	61
1,547.00–1,585.99	62
1,586.00–1,611.99	63
1,612.00–1,637.99	64
1,638.00–1,676.99	65
1,677.00–1,702.99	66
1,703.00–1,741.99	67
1,742.00–1,767.99	68
1,768.00–1,806.99	69
1,807.00–1,832.99	70
1,833.00–1,871.99	71
1,872.00–1,897.99	72

1,898.00–1,936.99	73
1,937.00–1,975.99	74
1,976.00–2,001.99	75
2,002.00–2,040.99	76
2,041.00–2,066.99	77
2,067.00–2,105.99	78
2,106.00–2,144.99	79
2,145.00–2,170.99	80
2,171.00–2,209.99	81
2,210.00–2,248.99	82
2,249.00–2,287.99	83
2,288.00–2,326.99	84
2,327.00–2,352.99	85
2,353.00–2,391.99	86
2,392.00–2,430.99	87
2,431.00–2,469.99	88
2,470.00–2,508.99	89
2,509.00–2,547.99	90
2,548.00–2,586.99	91
2,587.00–2,625.99	92
2,626.00–2,664.99	93
2,665.00–2,703.99	94
2,704.00–2,742.99	95
2,743.00–2,781.99	96
2,782.00–2,820.99	97
2,821.00–2,859.99	98
2,860.00–2,898.99	99
2,899.00–2,937.99	100
2,938.00–2,989.99	101
2,990.00–3,028.99	102
3,029.00–3,067.99	103
3,068.00–3,106.99	104
3,107.00–3,158.99	105
3,159.00–3,197.99	106
3,198.00–3,236.99	107
3,237.00–3,288.99	108
3,289.00–3,327.99	109
3,328.00–3,379.99	110
3,380.00–3,418.99	111
3,419.00–3,470.99	112
3,471.00–3,509.99	113
3,510.00–3,561.99	114
3,562.00–3,600.99	115
3,601.00–3,652.99	116
3,653.00–3,704.99	117
3,705.00–3,743.99	118
3,744.00–3,795.99	119
3,796.00–3,847.99	120
3,848.00–3,899.99	121

3,900.00–3,938.99	122
3,939.00–3,990.99	123
3,991.00–4,042.99	124
4,043.00–4,079.99	125
4,080.00–4,116.99	126
4,117.00–4,153.99	127
4,154.00–4,190.99	128
4,191.00–4,227.99	129
4,228.00–4,264.99	130
4,265.00–4,301.99	131
4,302.00–4,338.99	132
4,339.00–4,375.99	133
4,376.00–4,412.99	134
4,413.00–4,449.99	135
4,450.00–4,486.99	136
4,487.00–4,523.99	137
4,524.00–4,560.99	138
4,561.00–4,597.99	139
4,598.00–4,634.99	140
4,635.00–4,671.99	141
4,672.00–4,708.99	142
4,709.00–4,745.99	143
4,746.00–4,782.99	144
4,783.00–4,819.99	145
4,820.00–4,856.99	146
4,857.00–4,893.99	147
4,894.00–4,930.99	148
4,931.00–4,967.99	149
4,968.00–5,004.99	150
5,005.00–5,041.99	151
5,042.00–5,078.99	152
5,079.00–5,115.99	153
5,116.00–5,152.99	154
5,153.00–5,189.99	155
5,190.00 and over	156

SEC. 3. Section 3503 of the Unemployment Insurance Code is amended to read:

3503. For the purposes of this part:

(a) "Extended duration benefits" means the extended unemployment compensation benefits payable under this part.

(b) "Normal benefits" means the unemployment compensation benefits payable under Part 1 (commencing with Section 100) of this division.

(c) "Exhaustee" means an individual who is not entitled to normal benefits due to either of the following:

(1) He or she has an unexpired benefit year and has exhausted his or her normal benefits.

(2) His or her most recent benefit year expired in the week in

which he or she filed a primary claim or in the immediately preceding 13 calendar weeks and he or she is not entitled to establish a benefit year.

(d) "Insured unemployment rate" for a week means the percentage arrived at by dividing:

(1) The average weekly number of individuals filing claims for regular compensation for weeks of unemployment with respect to the period consisting of the week and the immediately preceding 12 weeks, by

(2) The average monthly covered employment for the same period.

The director shall interpret this definition in accordance with regulations and guidelines prescribed by the United States Secretary of Labor which are applicable to subdivision (e) of Section 203 of the federal act.

(e) "Extended benefit period" means the period beginning with the third week after the first week for which there is an "on" indicator, and ending with the third week after the first week for which there is an "off" indicator, except no extended benefit period shall last for a period of less than 13 consecutive weeks and no extended benefit period may begin before the 14th week after the close of a prior extended benefit period. There is an "on" indicator for a week if the insured unemployment rate equals or exceeds 6 percent. There is an "off" indicator for a week if the insured unemployment rate is less than 6 percent.

(f) "Primary claim" means the first claim for extended duration benefits filed by an exhaustee with an effective date within an extended benefit period for the purpose of establishing an extended duration award and an extended duration period.

(g) "Extended duration award" means the maximum amount of extended duration benefits allowable under this part to an eligible exhaustee.

(h) "Extended duration period" means a period beginning with the first day of the week with respect to which an exhaustee filed a valid primary claim and ending with the last week which begins on or before the last day of the fifth calendar month following the calendar month which contains the extended duration week or a major portion of the extended duration week in which the valid primary claim was filed.

(i) "Parent benefit year" means the benefit year with respect to which an individual becomes an exhaustee.

(j) "Federal act" means the "Federal-State Extended Unemployment Compensation Act of 1970".

SEC. 4. Section 3504 of the Unemployment Insurance Code is amended to read:

3504. The director shall during the week immediately preceding each calendar week compute the insured unemployment rate for that calendar week. The computation shall be a public record.

SEC. 5. Section 3552 of the Unemployment Insurance Code is

amended to read:

3552. An unemployed individual is eligible to receive extended duration benefits with respect to any week only if the director finds that:

(a) An extended duration award has been established for the individual.

(b) The week is:

(1) Within the extended duration period of the award; and

(2) Within an extended benefit period.

(c) He or she meets the eligibility requirements of Part 1 (commencing with Section 100) of this division, except those excluded under subdivision (b) of Section 3502.

(d) He or she is not subject to disqualification, and is not under disqualification for normal benefits, under any provision of Part 1 (commencing with Section 100) of this division.

(e) He or she has during his or her base period been paid wages for employment by employers of not less than 40 times his or her weekly benefit amount.

For the purpose of this section "wages" includes wages due to an individual but unpaid within the time limit provided by law.

(f) During any week within an extended benefit period under the federal act, the provisions of subdivision (d) of Section 4552 and Sections 4553, 4554, 4555, and 4556 shall apply to claims filed under this part.

SEC. 6. Section 3652 of the Unemployment Insurance Code is amended to read:

3652. An exhaustee who desires to claim extended duration benefits shall file a valid primary claim. A primary claim for extended duration benefits shall be valid only if its effective date is within an extended benefit period and the individual filing it is an unemployed exhaustee. For the purpose of determining whether a primary claim is a "valid primary claim" within the meaning of this section, an individual otherwise unemployed shall be deemed unemployed even though wages, as defined in Section 1252, which are for a period subsequent to the termination of performance of services are payable with respect to the week for which the individual files the claim.

SEC. 7. Section 4001 of the Unemployment Insurance Code is amended to read:

4001. The purpose of this part is to provide that payment of extended compensation, in accordance with the "Federal-State Extended Unemployment Compensation Act of 1970", as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), shall be made, for any week of unemployment which begins in the individual's eligibility period, to individuals who have exhausted all rights to regular compensation under this division and who have no rights to regular compensation with respect to such week under this division or any other state unemployment compensation law or to compensation under any other federal law. For purposes of this section, an individual shall have exhausted his or her rights to regular

compensation under any state law (A) when no payments of regular compensation can be made under such law because such individual has received all regular compensation available to the individual based on wage credits for his base period, or (B) when his rights to such compensation have terminated by reason of the expiration of the benefit year with respect to which such rights existed. Except where inconsistent with the provisions of the "Federal-State Extended Unemployment Compensation Act of 1970", as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), the terms and conditions of this division which apply to claims for regular compensation and to the payment thereof shall apply to claims for extended compensation and to the payment thereof under such federal act. This part shall be operative on September 25, 1982, and extended compensation shall be payable as provided by the Federal-State Extended Unemployment Compensation Act of 1970, as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), subject to limitations provided by that act, with respect to weeks of unemployment and extended benefit periods beginning after September 25, 1982. The provisions of this section in effect prior to the amendment of this section by the 1981–82 Regular Session of the Legislature shall continue to apply to weeks beginning after November 28, 1970, and before September 25, 1982.

SEC. 8. Section 4003 of the Unemployment Insurance Code is amended to read:

4003. (a) The provisions and definitions of terms in the "Federal-State Extended Unemployment Compensation Act of 1970," as amended by the federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), apply to this part. "Federal-state extended benefits" means benefits payable under this part.

(b) Effective with respect to compensation for weeks of unemployment beginning after September 25, 1982, the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made as provided in subsection (d) of Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), as if (i) paragraph (1) of such subsection (d) did not contain subparagraph (A) thereof, and (ii) the figure "5 per centum" in subparagraph (B) of paragraph (1) of such subsection (d) were "6 per centum," except that notwithstanding any provision of subdivision (d), any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator. There is a state "off" indicator for a week if, for the period consisting of such week and the immediately preceding 12 weeks, either subparagraph (A) or (B) of paragraph (1) was not satisfied.

(c) The provisions of this section in effect prior to the amendment of this section by the 1981–82 Regular Session of the Legislature shall continue to apply to weeks beginning prior to September 25, 1982,

but after March 30, 1977.

SEC. 9. Section 4552 of the Unemployment Insurance Code is amended to read:

4552. An unemployed individual is eligible to receive federal-state extended benefits with respect to any week only if the director finds that:

(a) An extended compensation account has been established for him or her.

(b) The week is within an extended benefit period and his or her eligibility period.

(c) He or she meets the eligibility requirements of Part 1 (commencing with Section 100) of this division, except those excluded under subdivision (b) of Section 4002.

(d) With respect to compensation payable to any individual for any week beginning after September 25, 1982, he or she had earnings which equal or exceed 40 times his or her most recent weekly benefit amount in the base period in which he or she exhausted all rights to regular compensation.

(e) He or she is not subject to disqualification for normal benefits under any provision of Part 1 (commencing with Section 100) of this division. If the individual has been subject to disqualification under subdivision (b) of Section 1257, he or she has satisfied subdivision (b) of Section 1260 and, during a week following the first week of disqualification, has done either of the following:

(1) Performed service in bona fide employment during a week on a full-time basis.

(2) Performed service in bona fide employment during a week from which service he or she earned remuneration at least equal to his or her weekly benefit amount.

SEC. 10. 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. 11. 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. 12. Sections 3, 4, 5, and 6 of this act, which amend Sections 3503, 3504, 3552, and 3652 of the Unemployment Insurance Code, respectively, shall apply to the payment of extended benefits for weeks of unemployment beginning after September 25, 1982.

SEC. 13. The amendment to Section 1256 of the Unemployment Insurance Code made by Section 1 of this act is intended to restore the law as it was construed prior to the decision by the First District of the California Court of Appeal in Norman v. California Unemployment Insurance Appeals Board, 1 Civ. No. 52713, and to endorse the

policy of the Employment Development Department, as expressed in its regulations, which distinguishes persons who are married or whose marriage is imminent from others in determining whether a person has left his or her most recent work without good cause when he or she leaves employment to accompany another person to a place from which it is impractical to commute to that employment.

(a) If Assembly Bill No 2856 of the 1981–82 Regular Session is chaptered, takes effect, and amends Sections 4001, 4003, and 4552 of the Unemployment Insurance Code, Sections 7, 8, and 9 of this bill, which amend the same sections of the Unemployment Insurance Code, shall not become operative.

(b) If Assembly Bill 3154 of the 1981–82 Regular Session is chaptered, takes effect, and amends Section 1280 of the Unemployment Insurance Code to increase the maximum weekly benefit amount payable under the unemployment compensation law to an amount higher than the amount provided in Section 2 of this act, Section 2 of this act, which also amends Section 1280 of the Unemployment Insurance Code, shall not become operative.

CHAPTER 1074

An act to add and repeal Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3 of the Unemployment Insurance Code, relating to the Employment Training Panel.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Chapter 3.5 (commencing with Section 10200) is added to Part 1 of Division 3 of the Unemployment Insurance Code, to read:

CHAPTER 3.5. EMPLOYMENT TRAINING PANEL

10200. The Legislature declares as follows:

(a) There are an inadequate number of jobs in this state to meet the needs of those seeking employment.

(b) Despite the large number of unemployed job seekers, many employers in new and expanding industries are having difficulty finding the skilled workers they need. A similar problem exists in industries where overall employment may not be expanding but where there is an acute need for skilled workers in particular occupations.

(c) Under existing law, all employer taxes paid into the unemployment insurance system compensate unemployment insurance recipients for being out of work. The intent of this chapter

is to use a small portion of employer taxes to put unemployment insurance recipients to work by encouraging employers to locate and expand facilities in this state and training unemployment insurance recipients in skills needed by employers.

(d) The purpose of this chapter is to establish an employment training program which shall foster job creation, minimize employers' unemployment costs, and meet employers' needs for skilled workers by providing skills training to unemployment insurance claimants, recent exhaustees of unemployment insurance who have remained unemployed, and potentially displaced workers who would otherwise become unemployment insurance claimants. It is the intent of the Legislature that all training funded through this chapter result in jobs for those who successfully complete the training.

(e) The funds made available by this chapter shall supplement but not displace funds available through existing programs conducted by employers themselves and public programs such as the California Worksite Education and Training Act, the Youth Employment and Development Act, or apportionment funds allocated to the community colleges, regional occupational centers and programs, or other local educational agencies. In addition, it is further the intention of the Legislature that programs developed pursuant to this chapter shall not replace, parallel, supplant, compete with, or duplicate in any way already existing approved apprenticeship programs.

10201. As used in this chapter:

(a) "Employer" means any employer subject to Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code, except any public entity, as defined by paragraph (3) of subdivision (a) of Section 135 of that code, and any nonprofit organization, as described in Section 608 of that code.

(b) "Eligible participant" means any person who, prior to beginning training or employment pursuant to this chapter, was either (1) unemployed and either receiving unemployment insurance benefits, or had exhausted eligibility for unemployment insurance benefits within the previous 52 weeks, or (2) is employed but is determined by the panel to be likely to be displaced and therefore claiming unemployment insurance benefits.

(c) "Panel" means the Employment Training Panel created by Section 15382.

(d) "Fund" means the Employment Training Fund created by Section 1610.

(e) "Department" means the Employment Development Department.

(f) "Training agency" means any private training entity or local educational agency.

10202. (a) There is hereby established in the department the Employment Training Panel consisting of seven persons with experience and a demonstrated interest in business management

and employment relations.

(b) Two members of the panel shall be appointed by the Speaker of the Assembly, two members of the panel shall be appointed by the President pro Tempore of the Senate, and three members of the panel shall be appointed by the Governor. The Governor shall designate a member to chair the panel, and the person so designated shall serve as the chair of the panel at the pleasure of the Governor.

(c) The members of the panel shall serve for two-year terms, except that of the initial members of the panel, one initial appointee of each appointing power shall serve for a one-year term.

(d) Members of the panel shall receive their necessary expenses, and per diem of one hundred dollars ($100).

10203. The panel may meet as necessary at locations throughout the state.

10204. The panel may designate local review panels to review and recommend proposals to the panel for final approval. Recommendations shall be based on the following:

(a) Local labor market demand.

(b) The capabilities and past performance of local training agencies and employers.

(c) In-kind contributions by employers, including, but not limited to, equipment, instructors, and training facilities.

(d) The priorities established in subdivision (b) of Section 10205.

The panel shall have the authority to withdraw its designation from those local review panels which do not meet these standards.

10205. The panel shall do all of the following:

(a) Solicit proposals and write contracts on the basis of proposals made directly to it and on the basis of the recommendations of the local review panels. Contracts may be written with any employer or any group of employers acting jointly or any training agency for the purpose of providing employment training. These contracts shall be in the form of fixed-fee performance contracts. Notwithstanding any provision of law to the contrary, contracts entered into pursuant to this chapter shall not be subject to competitive bidding procedures. No contract shall be written for a period of more than 18 months.

(b) Allocate the Employment Training Fund. In doing so, the panel shall seek to facilitate the employment of the maximum number of eligible participants in jobs with definite career potential and long-term job security. In no case shall the statewide allocation be based solely on population. Nothing in this chapter shall be construed to preclude the panel from entering into contracts with employers, groups of employers, or training agencies for the provision of training in multijurisdictional areas of the state. In writing contracts, priority shall be given to employers and training for employers who are expanding their business enterprises in this state, to employers and training for employers who are establishing enterprises in areas targeted for economic development by the Department of Economic and Business Development, and to employers and training for employers in industries in which there

are critical skills shortages. Preference shall be given to apprenticeship and similar training in which a person is employed at the commencement of training.

(c) Establish minimum standards for the consideration of proposals, which shall include, but not be limited to, the identification of employers who will employ successful trainees, the number of jobs available, the skill requirements for the identified jobs, the projected cost per trainee, and the wage level of the available jobs. No proposal shall be considered which proposes training for employment covered by a collective-bargaining agreement unless the signatory labor organization agrees in writing.

(d) Ensure the provision of adequate fiscal and accounting controls for, monitoring and auditing of, and other appropriate technical and administrative assistance to, projects funded by this chapter.

(e) Provide for evaluation of projects funded by this chapter. Individual project evaluations shall contain a summary description of the project, the number of persons entering training, the number of persons completing training, the number of persons employed at the end of the project, the number of persons still employed three months after the end of the project, the wages paid, the total costs of the project, and the total reimbursement received from the Employment Training Fund.

(f) Report annually to the Legislature, by September 30, on projects operating during the previous state fiscal year. These annual reports shall provide separate summaries of (1) projects completed during the year, including their individual and aggregate performance and cost; and (2) projects not completed during the year, briefly describing each project and identifying approved contract amounts by contract and for this category as a whole. The first annual report is due September 30, 1984.

(g) Expedite the processing of contracts for firms considering locating or expanding businesses in the state, as determined by the Department of Economic and Business Development.

10206. The panel may allocate money in the fund for any of the following purposes:

(a) Reimbursement of actual training costs incurred by employers and training agencies and for reasonable administrative costs.

(b) Costs of program administration incurred under this chapter.

(c) Costs of the Legislative Analyst's program evaluation conducted pursuant to Section 15395.

10207. Programs approved under Chapter 2.7 (commencing with Section 9900) of Division 3 of the Unemployment Insurance Code may apply to the panel for funding for programs that further the purposes of this chapter.

10208. Nothing in this chapter shall be construed to preclude any employer from contracting with any public or private training entity for services, subject to the approval of the panel.

10209. (a) Contracts shall only be made with employers, groups

of employers, or training agencies for job-linked training which provides specific skills for career advancement or which is preparatory for, and leads directly to, jobs with definite career potential and long-term job security.

(b) Payments shall be made in accordance with a performance contract under which partial payments may be made during training, a partial payment may be made on placement or retention of each trainee, and not less than 25 percent of the negotiated fee is withheld until the trainee has been retained in employment for 90 days after the end of training.

10210. Contracts shall be made with training agencies only if the training agency can demonstrate all of the following:

(a) The training agency has a satisfactory record of past performance in the placement and retention of former trainees and employer satisfaction with former trainees.

(b) The training agency can demonstrate labor market demand for the proposed training. Proof shall include, but not be limited to, the documented need of specific employers for the workers proposed to be trained in the skills proposed by the training agency.

(c) The training agency can demonstrate that the training prepares trainees in a manner satisfactory to employers.

(d) The training agency can demonstrate that its accounting systems include controls adequate to check the accuracy and reliability of accounting data, promote operating efficiency, and assure compliance with government requirements and generally accepted accounting principles. The panel shall have full access at any time to these accounting systems to assure compliance with these standards.

10211. A trainee or employee participating in a training program pursuant to this chapter shall be considered to be in a training program having the approval of the director under the provisions of Section 1274.1 of the Unemployment Insurance Code.

10212. The panel may employ personnel necessary to carry out the purposes of this chapter. All personnel of the panel shall be under the supervision of the chair or an executive director to whom he or she delegates this responsibility. All personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for an executive director and two assistant directors, who shall be exempt.

10213. The Employment Development Department shall cooperate with the panel by offering necessary technical assistance, which may include, but is not limited to, labor market information, projections of occupational demand, and information and advice on alternative training strategies.

10213.5. The Department of Economic and Business Development shall determine those firms considering locating or expanding businesses in the state in order to enable the Employment Training Panel to expedite the processing of contracts for these firms

pursuant to subdivision (g) of Section 10205. The Department of Economic and Business Development shall also provide technical assistance by marketing the Employment Training Fund to newly locating or expanding businesses in the state and by assisting in the packaging of employer contracts for training of eligible participants from the Employment Training Fund.

10214. To assist the panel and the Legislature in assessing the impact of this chapter over an extended period of time, the Employment Development Department shall develop and maintain a continuous employment, wage, and benefit history of participants in projects authorized pursuant to this chapter and of a random sample of unemployment insurance claimants. The design of this history shall be subject to the review and approval of the panel and the review and recommendations of the Legislative Analyst.

10215. The funding of individual project grants by the panel may take the form of either direct grants to the employer or training agency, or credits to the employer's liability for unemployment insurance contributions or reimbursements. Credits to the employer's liability for unemployment insurance contributions or reimbursements shall be drawn from the Employment Training Fund.

10216. The Legislative Analyst shall report to the Legislature by May 1, 1984, and each May 1 thereafter, on the performance and the cost effectiveness of the program operated under this chapter. The Legislative Analyst's report shall recommend any appropriate improvements to be made if the program is extended beyond January 1, 1987. Recommendations shall include statutory changes and other sources of funding which are from existing programs and not employer-financed.

10217. Funds in the Employment Training Fund created by Section 1610 shall be appropriated annually in the Budget Act by the Legislature for allocation by the panel for the purposes of this chapter.

10218. This chapter 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. Nothing in this act shall be construed to create any liability or authorize any sanctions against an employer who provides assurances of employment for trainees and is unable to employ trainees as anticipated due to circumstances beyond the control of the employer.

SEC. 3. The Department of Business and Economic Development shall discharge its new responsibilities under this act relating to the Employment Training Fund within the existing staff positions authorized for the 1982–83 budget year.

SEC. 4. This act shall not become operative unless Assembly Bill No. 3154 of the 1981–82 Regular Session of the Legislature is enacted and becomes operative on or before January 1, 1983.

CHAPTER 1075

An act to amend Sections 930, 976.8, 977, 977.5, 978, 979, 982, 1026, 1110.1, 1280, 1335, 1338, 1380, 3702, and 4702 of, to add Sections 976.6, 978.1, and 1027.5 to, to add and repeal Article 6 (commencing with Section 1610) of Chapter 6 of Part 1 of Division 1 of, and to repeal Sections 976.5, 976.6, and 1027 of, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 930 of the Unemployment Insurance Code is amended to read:

930. (a) "Wages" does not include remuneration in excess of the following amounts paid to an individual by an employer during any calendar year, with respect to employment:

(1) Six thousand dollars ($6,000) for a calendar year whenever the balance in the Unemployment Fund on June 30th of the prior calendar year equals or exceeds 1.5 percent of the wages, as defined by Section 940, in employment subject to this part paid during the 12-month period ending upon the computation date.

(2) Seven thousand dollars ($7,000) for a calendar year whenever the balance in the Unemployment Fund on June 30th of the prior calendar year is less than 1.5 percent of the wages, as defined by Section 940, in employment subject to this part paid during the 12-month period ending upon the computation date.

(b) Notwithstanding subdivision (a), "wages" shall include remuneration up to seven thousand dollars ($7,000) paid to an individual by an employer for any calendar year in which remuneration up to seven thousand dollars ($7,000) is included as "wages" for purposes of the Federal Unemployment Tax Act.

(c) For the purpose of this section, the total revenues shall be subject to the exclusions of the amounts provided by Section 980, and the total disbursements shall be subject to the exclusion of the amounts provided by Section 980.5.

SEC. 2. Section 976.5 of the Unemployment Insurance Code is repealed.

SEC. 3. Section 976.6 is added to the Unemployment Insurance Code, to read:

976.6. In addition to other contributions required by this division, every employer, except an employer defined by Section 676, shall pay into the Employment Training Fund contributions at the rate equal to 0.1 percent of wages. The contributions shall be collected in the same manner and at the same time as any contributions required under Section 977 or 978.

This section shall remain in effect only until January 1, 1987, and

on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 4. Section 976.8 of the Unemployment Insurance Code is amended to read:

976.8. Section 976.6 shall not apply to any employer who has a negative reserve account balance on the computation date.

SEC. 5. Section 977 of the Unemployment Insurance Code is amended to read:

977. (a) Whenever the balance in the Unemployment Fund on June 30th of any calendar year is less than 1.7 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, for which an official tabulation has been completed by the department, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in subdivision (b) if the limitation on "wages" is determined pursuant to subdivision (b) of Section 930, or at the rates specified in subdivision (c) if the limitation on "wages" is determined pursuant to subdivision (a) of Section 930. These rates shall remain in effect until the provisions and rates of Section 978 become applicable.

(b) If, as of the computation date, the employer's net balance of reserve equals or exceeds that percentage of his or her average base payroll which appears on any line in column 1 of the following table, but is less than that percentage of his or her average base payroll which appears on the same line in column 2 of that table, his or her contribution rate shall be the figure appearing on that same line in column 3 of that table.

	Reserve balance		Contribution rate
Line	Column 1	Column 2	Column 3
1	−10.0% or more		4.7%
2	More than 0.0%	−10.0%	4.5%
3	0.0%	1.0%	4.2%
4	1.0%	2.0%	4.1%
5	2.0%	3.0%	4.0%
6	3.0%	4.0%	3.9%
7	4.0%	5.0%	3.8%
8	5.0%	6.0%	3.6%
9	6.0%	7.0%	3.4%
10	7.0%	8.0%	3.2%
11	8.0%	9.0%	3.0%
12	9.0%	10.0%	2.8%
13	10.0%	11.0%	2.6%
14	11.0%	12.0%	2.4%
15	12.0%	13.0%	2.2%
16	13.0%	14.0%	2.0%
17	14.0%	15.0%	1.8%

18	15.0%	16.0%	1.6%
19	16.0%	17.0%	1.5%
20	17.0%	18.0%	1.4%
21	18.0%	19.0%	1.3%
22	19.0%	20.0%	1.2%
23	20.0% or more		1.1%

(c) If, as of the computation date, the employer's net balance of reserve equals or exceeds that percentage of his or her average base payroll which appears on any line in column 1 of the following table, but is less than that percentage of his or her average base payroll which appears on the same line in column 2 of that table, his or her contribution rate shall be the figure appearing on that same line in column 3 of that table.

	Reserve balance		Contribution rate
Line	Column 1	Column 2	Column 3
1	−10.0% or more		4.9%
2	More than 0.0%	−10.0%	4.7%
3	0.0%	1.0%	4.4%
4	1.0%	2.0%	4.3%
5	2.0%	3.0%	4.2%
6	3.0%	4.0%	4.1%
7	4.0%	5.0%	4.0%
8	5.0%	6.0%	3.8%
9	6.0%	7.0%	3.6%
10	7.0%	8.0%	3.4%
11	8.0%	9.0%	3.2%
12	9.0%	10.0%	3.0%
13	10.0%	11.0%	2.8%
14	11.0%	12.0%	2.6%
15	12.0%	13.0%	2.4%
16	13.0%	14.0%	2.2%
17	14.0%	15.0%	2.0%
18	15.0%	16.0%	1.8%
19	16.0%	17.0%	1.7%
20	17.0%	18.0%	1.6%
21	18.0%	19.0%	1.5%
22	19.0%	20.0%	1.4%
23	20.0% or more		1.3%

SEC. 6. Section 977.5 of the Unemployment Insurance Code is amended to read:

977.5. Notwithstanding the provisions of Sections 977, 978, and 979, the employer tax schedule contained in Section 978 shall apply to the calendar years 1980 and 1983.

SEC. 7. Section 978 of the Unemployment Insurance Code is amended to read:

978. (a) Whenever the balance in the Unemployment Fund on June 30th of any calendar year equals or exceeds 1.9 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, for which an official tabulation has been completed by the department, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in subdivision (b) if the limitation on "wages" is determined pursuant to subdivision (b) of Section 930, or at the rates specified in subdivision (c) if the limitation on "wages" is determined pursuant to subdivision (a) of Section 930. These rates shall remain in effect until the provisions and rates of Section 977 become applicable.

(b) If, as of the computation date, the employer's net balance of reserve equals or exceeds that percentage of his or her average base payroll which appears on any line in column 1 of the following table, but is less than that percentage of his or her average base payroll which appears on the same line in column 2 of that table, his or her contribution rate shall be the figure appearing on that same line in column 3 of that table.

	Reserve balance		Contribution rate
Line	Column 1	Column 2	Column 3
1	−10.0% or more		4.1%
2	More than 0.0%	−10.0%	3.9%
3	0.0%	1.0%	3.6%
4	1.0%	2.0%	3.4%
5	2.0%	3.0%	3.3%
6	3.0%	4.0%	3.2%
7	4.0%	5.0%	3.1%
8	5.0%	6.0%	3.0%
9	6.0%	7.0%	2.9%
10	7.0%	8.0%	2.7%
11	8.0%	9.0%	2.5%
12	9.0%	10.0%	2.3%
13	10.0%	11.0%	2.1%
14	11.0%	12.0%	1.9%
15	12.0%	13.0%	1.7%
16	13.0%	14.0%	1.5%
17	14.0%	15.0%	1.3%
18	15.0%	16.0%	1.1%
19	16.0%	17.0%	0.9%
20	17.0%	100.0% or more	0.7%

(c) If, as of the computation date, the employer's net balance of reserve equals or exceeds that percentage of his or her average base payroll which appears on any line in column 1 of the following table, but is less than that percentage of his or her average base payroll

which appears on the same line in column 2 of that table, his or her contribution rate shall be the figure appearing on that same line in column 3 of that table.

Line	Reserve balance Column 1	Column 2	Contribution rate Column 3
1	— 10.0% or more		4.3%
2	More than 0.0%	—10.0%	4.1%
3	0.0%	1.0%	3.8%
4	1.0%	2.0%	3.6%
5	2.0%	3.0%	3.5%
6	3.0%	4.0%	3.4%
7	4.0%	5.0%	3.3%
8	5.0%	6.0%	3.2%
9	6.0%	7.0%	3.1%
10	7.0%	8.0%	2.9%
11	8.0%	9.0%	2.7%
12	9.0%	10.0%	2.5%
13	10.0%	11.0%	2.3%
14	11.0%	12.0%	2.1%
15	12.0%	13.0%	1.9%
16	13.0%	14.0%	1.7%
17	14.0%	15.0%	1.5%
18	15.0%	16.0%	1.3%
19	16.0%	17.0%	1.1%
20	17.0%	100.0% or more	0.9%

SEC. 8 Section 978.1 is added to the Unemployment Insurance Code, to read:

978.1. In lieu of contributions required by Section 977 or 978, an employer, except an employer as defined by Section 676, whose average base payroll has increased on a computation date 25 percent or more above his or her average base payroll on the preceding computation date, shall pay into the Unemployment Fund contributions with respect to wages paid for employment at the next lower rate than the rate applicable to other employers for the calendar year under column 3 of Section 977 or 978, but not less than one and three-tenths of one percent (1.3%) under Section 977, or nine-tenths of one percent (0.9%) under Section 978. This section shall not apply to any employer who has a negative reserve account balance on the computation date.

SEC. 9. Section 979 of the Unemployment Insurance Code is amended to read:

979. On or before November 30th of each calendar year the director shall prepare a statement declaring which of the employer tax schedules contained in Sections 977 and 978 shall be in effect for the following calendar year. The statement shall be a public record and shall include the official tabulation of wages in subject

employment made by the department according to Sections 977 and 978, a summary of the data upon which that tabulation was based, and the sources from which those data were obtained, and shall further include a summary of the data upon which the computation of the balance in the Unemployment Fund was based, and their source. The director's action under Sections 977, 978 and this section shall not constitute an authorized regulation.

SEC. 9.5. Section 982 of the Unemployment Insurance Code is amended to read:

982. (a) Except as provided in subdivision (b) of this section, no employer shall be eligible for a contribution rate of more or less than 3.4 percent for any rating period unless his reserve account has been subject to benefit charges during the period of 12 complete consecutive calendar quarters ending on the computation date for that rating period and he is qualified under Section 977 or 978.

(b) No new employer shall be eligible for a contribution rate of more or less than 3.4 percent unless his reserve account has been subject to benefit charges during the period of 12 complete consecutive calendar months ending on the computation date and he is qualified under Section 977 or 978.

(c) For the purposes of this section "new employer" means any of the following:

(1) An employer who first qualifies as an employer after the calendar year 1969, and whose account is continuously subject to benefit charges from the date of first chargeability, except that a successor employer under Section 1051 is not a new employer if the successor applies for or obtains the transfer of the reserve account or part thereof of a predecessor who is not a new employer.

(2) An employer whose entire reserve account has been transferred to a successor under Article 5 (commencing with Section 1051) of Chapter 4 of this part.

(3) An employer whose reserve account has been canceled pursuant to Section 1029.

(d) Section 905 applies to a new employer, except that for the purposes of this section "average base payroll" means:

(1) The payroll in the calendar year immediately preceding the computation date for a new employer with a payroll only in that calendar year.

(2) The quotient obtained by dividing by two the total amount of taxable wages paid by a new employer during the most recent period of two consecutive calendar years immediately preceding the computation date, for a new employer with a payroll only in each of, or only in the first of, the two consecutive calendar years.

SEC. 10. Section 1026 of the Unemployment Insurance Code is amended to read:

1026. (a) The director shall maintain a separate account for each employer, and shall credit his account with all the contributions paid on his own behalf.

(b) Unemployment compensation benefits paid to an

unemployed individual during any benefit year shall be charged against the account of his or her employer during his or her base period, but if the individual performed services in employment for more than one employer during his or her base period, unemployment compensation benefits paid to him or her shall be charged against the respective accounts of the employers in the proportion that the total wages paid to the individual in employment for each employer bears to the total wages paid to the individual in employment for all employers during the base period.

(c) The director shall credit the interest earned by the Unemployment Fund to each positive reserve employer account in proportion to the amount the account bears to the total of all positive reserve accounts.

(d) Except as provided by Sections 803, 804, 821, and 1032.7, Article 7 (commencing with Section 841) of Chapter 3, and Chapter 5.8 (commencing with Section 1480), in proportion to the amount each employer's taxable wages bears to the total of all employers' taxable wages, the director shall credit to each employer account all of the following:

(1) Benefit overpayments collected in the four quarters prior to the computation date.

(2) Contributions paid pursuant to Section 978.5.

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

(4) Other nontax income.

(e) Except as provided by Sections 803, 804, 821, and 1032.7, Article 7 (commencing with Section 841) of Chapter 3, and Chapter 5.8 (commencing with Section 1480), in the same proportion as provided in subdivision (d), the director shall charge to each employer account all of the following:

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

(2) Benefit overpayments established in the four quarters prior to the computation date.

(3) Benefits not charged to employer reserve accounts pursuant to Section 1032, 1032.5, 1034, 1035, 1036, 1335, 1338, or 1380.

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

SEC. 11. Section 1027 of the Unemployment Insurance Code is repealed.

SEC. 12. Section 1027.5 is added to the Unemployment Insurance Code, to read:

1027.5. On the computation date each year, the amount each employer's net balance of reserve is more negative than 12 percent of the employer's base payroll shall be canceled from his or her reserve balance.

SEC. 12.3. Section 1110.1 of the Unemployment Insurance Code is amended to read:

1110.1. (a) Notwithstanding any other provision of law, the

director shall allocate any payment to the department relating to liability for contributions, withheld personal income tax, penalty and interest, in accordance with any designation made by the payer at or before the time the payment is made to the department.

(b) Notwithstanding any other provision of law, if a payer, at or before the time a payment is made to the department, does not designate an obligation to which the payment is to be applied, the director shall allocate the payment in the following order of priority:

(1) Employer contributions required under Sections 976 and 976.6, worker contributions, and withheld personal income tax, in proportion to the aggregate amount of such employer contributions, worker contributions, and withheld personal income tax due.

(2) Penalties and interest due under this division, and penalties and interest due based upon withheld personal income tax.

(c) The director may apply the following standards in making any allocation under this section:

(1) First priority may be given to the extinction of obligations due at the time of payment with respect to which a lien has not been recorded, in the order inverse to that in which the obligation became due.

(2) Second priority may be given to the extinction of obligations due at the time of payment with respect to which a lien has been recorded. If more than one lien has been recorded, the obligations covered by the most recent lien recorded may be extinguished in full before any payment is allocated to obligations covered by the next prior lien recorded.

SEC. 12.5. Section 1280 of the Unemployment Insurance Code is amended to read:

1280. (a) An individual's weekly benefit amount is the amount appearing in column B in the following applicable table opposite that wage bracket in column A which contains the amount of wages paid to the individual for employment by employers during the quarter of his or her base period in which his or her wages were the highest.

(b) For new claims filed with an effective date beginning on or after January 1, 1982, and prior to January 1, 1983, the following table shall be applicable under subdivision (a):

A *Amount of wages in highest quarter*	*B* *Weekly benefit amount*
$225.00– 688.99	30
689.00– 714.99	31
715.00– 740.99	32
741.00– 766.99	33
767.00– 792.99	34
793.00– 818.99	35
819.00– 844.99	36
845.00– 870.99	37
871.00– 896.99	38

897.00– 922.99	39
923.00– 948.99	40
949.00– 974.99	41
975.00–1,000.99	42
1,001.00–1,026.99	43
1,027.00–1,052.99	44
1,053.00–1,078.99	45
1,079.00–1,117.99	46
1,118.00–1,143.99	47
1,144.00–1,169.99	48
1,170.00–1,195.99	49
1,196.00–1,221.99	50
1,222.00–1,247.99	51
1,248.00–1,286.99	52
1,287.00–1,312.99	53
1,313.00–1,338.99	54
1,339.00–1,364.99	55
1,365.00–1,403.99	56
1,404.00–1,429.99	57
1,430.00–1,455.99	58
1,456.00–1,494.99	59
1,495.00–1,520.99	60
1,521.00–1,546.99	61
1,547.00–1,585.99	62
1,586.00–1,611.99	63
1,612.00–1,637.99	64
1,638.00–1,676.99	65
1,677.00–1,702.99	66
1,703.00–1,741.99	67
1,742.00–1,767.99	68
1,768.00–1,806.99	69
1,807.00–1,832.99	70
1,833.00–1,871.99	71
1,872.00–1,897.99	72
1,898.00–1,936.99	73
1,937.00–1,975.99	74
1,976.00–2,001.99	75
2,002.00–2,040.99	76
2,041.00–2,066.99	77
2,067.00–2,105.99	78
2,106.00–2,144.99	79
2,145.00–2,170.99	80
2,171.00–2,209.99	81
2,210.00–2,248.99	82
2,249.00–2,287.99	83
2,288.00–2,326.99	84
2,327.00–2,352.99	85
2,353.00–2,391.99	86
2,392.00–2,430.99	87

2,431.00–2,469.99	88
2,470.00–2,508.99	89
2,509.00–2,547.99	90
2,548.00–2,586.99	91
2,587.00–2,625.99	92
2,626.00–2,664.99	93
2,665.00–2,703.99	94
2,704.00–2,742.99	95
2,743.00–2,781.99	96
2,782.00–2,820.99	97
2,821.00–2,859.99	98
2,860.00–2,898.99	99
2,899.00–2,937.99	100
2,938.00–2,989.99	101
2,930.00–3,028.99	102
3,029.00–3,067.99	103
3,068.00–3,106.99	104
3,107.00–3,158.99	105
3,159.00–3,197.99	106
3,198.00–3,236.99	107
3,237.00–3,288.99	108
3,289.00–3,327.99	109
3,328.00–3,379.99	110
3,380.00–3,418.99	111
3,419.00–3,470.99	112
3,471.00–3,509.99	113
3,510.00–3,561.99	114
3,562.00–3,600.99	115
3,601.00–3,652.99	116
3,653.00–3,704.99	117
3,705.00–3,743.99	118
3,744.00–3,795.99	119
3,796.00–3,847.99	120
3,848.00–3,899.99	121
3,900.00–3,938.99	122
3,939.00–3,990.99	123
3,991.00–4,042.99	124
4,043.00–4,094.99	125
4,095.00–4,146.99	126
4,147.00–4,198.99	127
4,199.00–4,250.99	128
4,251.00–4,302.99	129
4,303.00–4,354.99	130
4,355.00–4,419.99	131
4,420.00–4,471.99	132
4,472.00–4,523.99	133
4,524.00–4,575.99	134
4,576.00–4,640.99	135
4,641.00 and over	136

(c) For new claims filed with an effective date beginning on or after January 1, 1983, the following table shall be applicable under subdivision (a):

A *Amount of wages in highest quarter*	*B* *Weekly benefit amount*
$225.00– 688.99	30
689.00– 714.99	31
715.00– 740.99	32
741.00– 766.99	33
767.00– 792.99	34
793.00– 818.99	35
819.00– 844.99	36
845.00– 870.99	37
871.00– 896.99	38
897.00– 922.99	39
923.00– 948.99	40
949.00– 974.99	41
975.00–1,000.99	42
1,001.00–1,026.99	43
1,027.00–1,052.99	44
1,053.00–1,078.99	45
1,079.00–1,117.99	46
1,118.00–1,143.99	47
1,144.00–1,169.99	48
1,170.00–1,195.99	49
1,196.00–1,221.99	50
1,222.00–1,247.99	51
1,248.00–1,286.99	52
1,287.00–1,312.99	53
1,313.00–1,338.99	54
1,339.00–1,364.99	55
1,365.00–1,403.99	56
1,404.00–1,429.99	57
1,430.00–1,455.99	58
1,456.00–1,494.99	59
1,495.00–1,520.99	60
1,521.00–1,546.99	61
1,547.00–1,585.99	62
1,586.00–1,611.99	63
1,612.00–1,637.99	64
1,638.00–1,676.99	65
1,677.00–1,702.99	66
1,703.00–1,741.99	67
1,742.00–1,767.99	68
1,768.00–1,806.99	69
1,807.00–1,832.99	70
1,833.00–1,871.99	71

1,872.00–1,897.99	72
1,898.00–1,936.99	73
1,937.00–1,975.99	74
1,976.00–2,001.99	75
2,002.00–2,040.99	76
2,041.00–2,066.99	77
2,067.00–2,105.99	78
2,106.00–2,144.99	79
2,145.00–2,170.99	80
2,171.00–2,209.99	81
2,210.00–2,248.99	82
2,249.00–2,287.99	83
2,288.00–2,326.99	84
2,327.00–2,352.99	85
2,353.00–2,391.99	86
2,392.00–2,430.99	87
2,431.00–2,469.99	88
2,470.00–2,508.99	89
2,509.00–2,547.99	90
2,548.00–2,586.99	91
2,587.00–2,625.99	92
2,626.00–2,664.99	93
2,665.00–2,703.99	94
2,704.00–2,742.99	95
2,743.00–2,781.99	96
2,782.00–2,820.99	97
2,821.00–2,859.99	98
2,860.00–2,898.99	99
2,899.00–2,937.99	100
2,938.00–2,989.99	101
2,990.00–3,028.99	102
3,029.00–3,067.99	103
3,068.00–3,106.99	104
3,107.00–3,158.99	105
3,159.00–3,197.99	106
3,198.00–3,236.99	107
3,237.00–3,288.99	108
3,289.00–3,327.99	109
3,328.00–3,379.99	110
3,380.00–3,418.99	111
3,419.00–3,470.99	112
3,471.00–3,509.99	113
3,510.00–3,561.99	114
3,562.00–3,600.99	115
3,601.00–3,652.99	116
3,653.00–3,704.99	117
3,705.00–3,743.99	118
3,744.00–3,795.99	119
3,796.00–3,847.99	120

3,848.00–3,899.99	121
3,900.00–3,938.99	122
3,939.00–3,990.99	123
3,991.00–4,042.99	124
4,043.00–4,079.99	125
4,080.00–4,116.99	126
4,117.00–4,153.99	127
4,154.00–4,190.99	128
4,191.00–4,227.99	129
4,228.00–4,264.99	130
4,265.00–4,301.99	131
4,302.00–4,338.99	132
4,339.00–4,375.99	133
4,376.00–4,412.99	134
4,413.00–4,449.99	135
4,450.00–4,486.99	136
4,487.00–4,523.99	137
4,524.00–4,560.99	138
4,561.00–4,597.99	139
4,598.00–4,634.99	140
4,635.00–4,671.99	141
4,672.00–4,708.99	142
4,709.00–4,745.99	143
4,746.00–4,782.99	144
4,783.00–4,819.99	145
4,820.00–4,856.99	146
4,857.00–4,893.99	147
4,894.00–4,930.99	148
4,931.00–4,967.99	149
4,968.00–5,004.99	150
5,005.00–5,041.99	151
5,042.00–5,078.99	152
5,079.00–5,115.99	153
5,116.00–5,152.99	154
5,153.00–5,189.99	155
5,190.00–5,232.99	156
5,233.00–5,265.99	157
5,266.00–5,298.99	158
5,299.00–5,332.99	159
5,333.00–5,365.99	160
5,366.00–5,398.99	161
5,399.00–5,432.99	162
5,433.00–5,465.99	163
5,466.00–5,498.99	164
5,499.00–5,532.99	165
5,533.00 and over	166

SEC. 13. Section 1335 of the Unemployment Insurance Code is amended to read:

1335. If an appeal is filed, benefits with respect to the period prior to the final decision on the appeal shall be paid only after the decision, except that:

(a) If benefits for any week are payable in accordance with a determination by the department irrespective of any decision on the issues set forth in the appeal, such benefits shall be promptly paid regardless of such appeal.

(b) If a referee affirms a determination allowing benefits, such benefits shall be promptly paid regardless of any appeal which may thereafter be taken, and regardless of any action taken under Section 1336 or otherwise by the director, appeals board, or other administrative body or by any court.

If the determination is finally reversed, no employer's account shall be charged with benefits paid because of that determination, except as provided in Section 1026.

(c) If benefits for any week are payable in accordance with a determination by the department, or a referee issues a decision allowing benefits, the benefits shall be promptly paid regardless of any appeal, and regardless of any action taken by the appeals board pursuant to Section 412 or 413. If the determination of the department or the decision of the referee is finally reversed, no employer's reserve account shall be charged with benefits paid pursuant to this subdivision, except as provided in Section 1026.

SEC. 14. Section 1338 of the Unemployment Insurance Code is amended to read:

1338. If the appeals board issues a decision allowing benefits the benefits shall be paid regardless of any further action taken by the director, the appeals board, or any other administrative agency, and regardless of any appeal or mandamus, or other proceeding in the courts. If the decision of the appeals board is finally reversed or set aside, no employer's account shall be charged with the benefits paid pursuant to this section, except as provided in Section 1026.

SEC. 15. Section 1380 of the Unemployment Insurance Code is amended to read:

1380. No person shall be liable for the amount of benefits received where the benefits were paid pursuant to a referee's decision which affirmed an initial determination or in accordance with a final decision of the appeals board, regardless of any further appeal. An employer's experience rating account shall not be charged with any benefits erroneously or unlawfully paid, except as provided in Section 1026.

SEC. 16. Article 6 (commencing with Section 1610) is added to Chapter 6 of Part 1 of Division 1 of the Unemployment Insurance Code, to read:

Article 6. Employment Training Fund

1610. There is in the State Treasury a special fund known as the Employment Training Fund. There shall be deposited in or trans-

ferred to this fund all contributions collected from employers pursuant to Section 976.6. Costs incurred for the purposes specified in Section 1611 in fiscal year 1982–83 shall be reimbursed, and thereafter shall be annually appropriated by the Legislature from the Employment Training Fund.

1611. Money in the Employment Training Fund shall be expended only for the purposes of Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3, and for the costs of administering this article and Section 976.6, except for the following:

(a) If at any time during the fiscal year the contributions paid pursuant to Section 976.6 exceed fifty-five million dollars ($55,000,000), the excess shall be transferred to the Unemployment Fund.

(b) With the approval of the Legislature, the Employment Training Fund or contributions to it may be used to pay interest charged on federal loans to the Unemployment Fund.

1612. This article 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. 17. When Article 6 (commencing with Section 1610) of Chapter 6 of Part 1 of Division 1 of the Unemployment Insurance Code is no longer in effect pursuant to Section 1613, all moneys in the Employment Training Fund shall be transferred to the Unemployment Fund after all encumbrances and charges have been satisfied.

SEC. 18. Section 3702 of the Unemployment Insurance Code is amended to read:

3702. Extended duration benefits shall be charged against the account of the exhaustee's employer during his or her base period. If the individual performed services in employment for more than one employer during his or her base period, unemployment compensation benefits paid to him or her shall be charged against the respective accounts of such employers in the proportion that the total wages paid to the individual in employment for each employer bears to the total wages paid to the individual in employment for all employers during the base period.

SEC. 19. Section 4702 of the Unemployment Insurance Code is amended to read:

4702. Federal-state extended benefits shall be charged against the account of the individual's employer during his or her base period. If the individual performed services in employment for more than one employer during his or her base period, unemployment compensation benefits paid to him or her shall be charged against the respective accounts of such employers in the proportion that the total wages paid to the individual in employment for each employer bears to the total wages paid to the individual in employment for all employers during the base period.

SEC. 20. The Employment Development Department shall report to the Legislature on or before July 1, 1985, and again on or before July 1, 1986, on the cost and effect of the changes made by this

act, including, but not limited to, the cost of administering the collection of contributions for the Employment Training Fund and of carrying out its responsibilities pursuant to Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3 of the Unemployment Insurance Code, and the effect on the various types of employers and on the Unemployment Fund of the changes made in the unemployment insurance tax structure. The department shall consult with the Legislature's Committees on Industrial Relations and Finance, Insurance and Commerce prior to the preparation of each report. Any costs to the department in carrying out this section shall be reimbursed when appropriated by the Legislature from the Employment Training Fund.

SEC. 21. (a) This act shall not become operative unless Assembly Bill 2901 and Assembly Bill 3461 of the 1981–82 Regular Session of the Legislature are enacted and become operative on or before January 1, 1983.

(b) Assembly Bill 3461 shall not become operative unless Assembly Bill 2901 is enacted and becomes operative on or before January 1, 1983.

SEC. 22. 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. 23. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, and except as provided in Section 1612 of the Unemployment Insurance Code, which is added to the code by Section 16 of this act, this act does not contain a repealer, as required by Section 2231.5; therefore, the provisions of this act, except Section 16, shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1076

An act to amend Section 11628 of the Insurance Code, relating to insurance.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 11628 of the Insurance Code is amended to read:

11628. (a) No admitted insurer, licensed to issue and issuing motor vehicle liability policies as defined in Section 16450 of the

Vehicle Code, shall fail or refuse to accept an application for such insurance, to issue such insurance to an applicant therefor, or issue or cancel such insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, language, color, religion, national origin, ancestry, or the same geographic area; nor shall race, language, color, religion, national origin, ancestry, or location within a geographic area of itself constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for such insurance.

As used in this section "geographic area" means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. In order that geographic areas used for rating purposes may reflect homogeneity of loss experience, a record of loss experience for such geographic area shall include the breakdown of actual loss experience statistics by zip code area (as designated by the United State Postal Service) within each geographic area for family owned private passenger motor vehicles and lightweight commercial motor vehicles, under 1½-ton load capacity, used for local service or retail delivery, normally within a 50-mile radius of garaging, and which are not part of a fleet of five or more motor vehicles under one ownership. A record of loss experience for such geographic area, including such statistical data by zip code area, shall be available for examination by the commissioner. Differentiation in rates between geographical areas shall not constitute unfair discrimination.

As used in this section, "language" means the inability to speak, read, write, or comprehend the English language.

(b) No admitted insurer, licensed to issue and issuing motor vehicle liability insurance policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for such insurance, refuse to issue such insurance to an applicant therefor, or cancel such insurance solely for the reason that the applicant for such insurance or any insured is employed in a specific occupation.

Nothing in this section shall prohibit an insurer from:

(1) Considering the occupation of the applicant or insured as a condition or risk for which a higher rate or discounted rate may be required or offered for coverage in the course and scope of his or her occupation.

(2) Charging a deviated rate to any classification of risks involving a specific occupation, or grouping thereof, if the rate meets the requirements of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1 and is based upon actuarial data which demonstrates a significant actual historical differential between past losses or expenses attributable to the specific occupation, or grouping thereof, and the past losses or expenses attributable to other classification of risks. For purposes of compiling such actuarial data for a specific occupation or grouping thereof, a person shall be deemed employed

in the occupation in which that data is compiled if: (A) the majority of his or her employment during the previous year was in the occupation, or (B) the majority of his or her aggregate earnings for the immediate preceding three-year period were derived from the occupation, or (C) the person is a member in good standing of a union which is an authorized collective-bargaining agent for persons engaged in the occupation.

Nothing in this section shall be construed to include in the definition of "occupation" active duty service in the Armed Forces of the United States or self-employment in a business operated out of an applicant's or insured's place of residence or persons engaged in the renting, leasing, selling, repossessing, rebuilding, wrecking or salvaging of motor vehicles.

(c) Nothing in this section shall limit or restrict the ability of an insurer to refuse to accept an application for or refuse to issue or cancel such insurance for the reason that it is a commercial vehicle or based upon the consideration of a vehicle's size, weight, design or intended use.

(d) It is the intent of the Legislature that actuarial data by occupation may be examined for credibility by the commissioner on the same basis as any other automobile insurance data which he or she is empowered to examine.

(e) The provisions of this section shall be known and may be cited as the "Rosenthal-Robbins Auto Insurance Nondiscrimination Law."

CHAPTER 1077

An act to amend Sections 4401, 4402, 4404, 4405, 4406, 4407, 4408, and 4418 of, and to add Sections 4407.3 and 4407.5 to, the Labor Code, relating to workers' compensation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 4401 of the Labor Code is amended to read:

4401. It is the declared policy of the state that qualified injured workers with asbestosis which arises out of and occurs in the course of employment shall receive workers' compensation asbestos workers' benefits promptly and not be subjected to delays of litigation to determine the responsible employer.

SEC. 1.5. Section 4402 of the Labor Code is amended to read:

4402. (a) "Asbestosis" means any pathology, whether or not combined with preexisting pathology, which results in disability or need for medical treatment from inhalation of asbestos fibers.

(b) "Asbestos worker" means any person whose occupation

subjected him or her to an exposure to asbestos fibers.

(c) "Asbestos workers' benefits" means temporary total disability benefits, permanent total disability benefits, death benefits, and medical benefits.

(d) "Dependents" means, and is limited to, a surviving spouse who at the time of injury was dependent on the deceased asbestos worker for half or more of his or her support, and minor children of the deceased asbestos worker.

SEC. 2. 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 asbestos workers' benefits thereto.

SEC. 3. Section 4405 of the Labor Code is amended to read:

4405. Where the conditions of compensation exist under this division the right to recover workers' compensation asbestos workers' benefits pursuant to the provisions of this chapter is a temporary remedy for injury to an asbestos worker against the Asbestos Workers' Account, and such asbestos worker or his or her dependents shall make all reasonable effort to establish the identity of the employer responsible for securing the payment of compensation.

SEC. 4. Section 4406 of the Labor Code is amended to read:

4406. (a) Payments as advances on workers' compensation asbestos workers' benefits shall be furnished an asbestos worker for injury resulting in asbestosis, or the dependents of the asbestos worker in the case of his or her death due to asbestosis, subject to the provisions of this division, if all of the following conditions occur:

(1) The asbestos worker demonstrates to the account that at the time of exposure, the asbestos worker was performing services and was acting within the scope of his or her duties in an occupation that subjected the asbestos worker to the exposure to asbestos.

(2) The asbestos worker demonstrates to the account that he or she is suffering from asbestosis.

(3) The asbestos worker demonstrates to the account that he or she developed asbestosis from the employment.

(4) The asbestos worker is entitled to compensation for asbestosis as otherwise provided for in this division.

(b) The findings of the account with regard to the conditions in subdivision (a) shall not be evidence in any other proceeding.

(c) The account shall require the asbestos worker to submit to an independent medical examination unless the information and assistance officer, in consultation with the medical director or his or her designee, determines that there exists adequate medical evidence that the worker developed asbestosis from the employment.

SEC. 5. Section 4407 of the Labor Code is amended to read:

4407. When the account determines that the conditions in Section 4406 have occurred, payments as advances on workers'

compensation asbestos workers' benefits shall be provided in accordance with this chapter, notwithstanding the right of the asbestos worker to secure compensation as otherwise provided for in this division.

SEC. 6. Section 4407.3 is added to the Labor Code, to read:

4407.3. For purposes of this chapter, the death benefit shall be paid in installments in the same manner and amounts as temporary disability indemnity.

SEC. 7. Section 4407.5 is added to the Labor Code, to read:

4407.5. Benefits provided by this chapter shall not be commuted into a lump-sum payment.

SEC. 8. Section 4408 of the Labor Code is amended to read:

4408. Prior to seeking compensation benefits under this chapter, the asbestos worker shall first make claim on the employer or its workers' compensation insurance carrier for payment of compensation under this division. If the asbestos worker is unable to locate the responsible employer or insurance carrier, or if the employer or insurance carrier fails to pay or denies liability for the compensation required by this division to the person entitled thereto, within a period of 30 days after the assertion of such a claim, the asbestos worker may seek payment of workers' compensation asbestos workers' benefits required by this division from the Asbestos Workers' Account.

SEC. 9. Section 4418 of the Labor Code is amended to read:

4418. The provisions of this chapter providing for the payment of workers' compensation asbestos workers' benefits from the Asbestos Workers' Account shall be operative only until December 31, 1985, and as of such date all payments from the fund shall be terminated, and the state shall have no further obligation to pay asbestos workers' benefits, unless a later enacted statute which is chaptered before December 31, 1985, deletes or extends such date. However, if no such statute is enacted prior to December 31, 1985, the authority of the Asbestos Workers' Account under this chapter to recover the benefits and costs paid to asbestos workers prior to such date shall continue until such benefits and costs have been recovered.

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 to prevent the public health and safety of many persons from being adversely affected by a delay in the enactment of the provisions of this act, it is necessary for this act to take effect immediately.

CHAPTER 1078

An act to amend Section 8046 of, to add Section 8394.5 to, and to add and repeal Article 16 (commencing with Section 8560) of Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to fish, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 8046 of the Fish and Game Code is amended to read:

8046. Every person operating under a license issued pursuant to this article shall, in addition to the license fee and the tax required under Section 8045, pay an additional privilege tax of one cent ($0.01) for each pound, or fraction thereof, of thresher shark or bonito (mako) shark purchased, received, or taken by him or her. The moneys collected by the department pursuant to this section shall be expended solely for purposes of the study required by and the costs of administering Article 16 (commencing with Section 8560) of Chapter 2 of this part.

Collection of the privilege tax imposed by this section shall begin on October 1, 1980.

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 8394.5 is added to the Fish and Game Code, to read:

8394.5. The fee for the permit issued pursuant to Section 8394 shall be one hundred fifty dollars ($150). This permit fee shall not apply to the holder of a valid drift gill net shark and swordfish permit required under Article 16 (commencing with Section 8560) of Chapter 2.

SEC. 3. Article 16 (commencing with Section 8560) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 16. Drift Gill Net Shark and Swordfish Fishery

8560. The Legislature finds and declares as follows:

(a) The drift gill net shark fishery is expanding at a rapid rate.

(b) The principal species taken by the fishery are long-lived and have a low rate of reproduction.

(c) The drift gill net shark fishery affects the important swordfish and marlin fisheries.

Therefore, the department shall study the drift gill net shark fishery for biological and fishery management purposes and shall

prepare a report on the status of the thresher shark and swordfish resources off California and on the effects of the fishery on other resources and submit this report to the Legislature on or before January 1, 1985.

8561. (a) Notwithstanding Sections 8394 and 8603, shark and swordfish may not be taken for commercial purposes with drift gill nets except under a nontransferable, revocable drift gill net shark and swordfish permit issued annually by the department. These permits may be revoked or suspended by the commission, when requested by the department, upon a conviction for a willful violation of any provision of this article, Article 1 (commencing with Section 8601) or Article 5 (commencing with Section 8680) of Chapter 3, or violation of any condition of the permit by the permittee or the permittee's agent, servant, employee, or person acting under the permittee's direction or control.

(b) A drift gill net shark and swordfish permit shall not be required for the taking of sharks with drift gill nets with a mesh size smaller than eight inches in stretched mesh and twine size no. 18 or the equivalent of this twine size or smaller. A drift gill net shark and swordfish permit shall not be required for the taking of sharks north of a line extending west magnetically from Point Arguello.

8562. Applications for a drift gill net shark and swordfish permit shall be made on such forms and contain such information as the department may require. This permit requirement is in addition to any other commercial fishing requirements. Applications delivered to a department office after April 30, or if mailed, postmarked after April 30, shall not be accepted unless approved by the commission pursuant to Section 8569.

8563. (a) Except as provided in subdivision (b), the permittee shall be aboard the vessel and shall be in possession of a valid drift gill net shark and swordfish permit when engaged in operations authorized by the permit.

(b) A permittee may have any person serve in his or her place on the permittee's vessel and engage in fishing under his or her drift gill net shark and swordfish permit for not more than 15 calendar days in any one year, except that a longer period may be allowed in the event of serious illness. A permittee shall notify the department's Long Beach office of a substitution of 15 days or less per calendar year, by certified letter or telegram at least 24 hours prior to the commencement of the trip. Written authorization for a substitution of greater than 15 days shall be obtained from the director and shall be given only on the director's finding that the permittee will not be available to engage in the activity due to serious illness, supported by medical evidence. An application for a substitution of greater than 15 days shall be made to the Department of Fish and Game, Headquarters Office, Sacramento, and shall contain such information as the director may require. Any denial of the substitution may be appealed to the commission.

8564. When the permittee applies for a drift gill net shark and

swordfish permit, the permittee shall specify the vessel he or she will use in operations authorized by the permit. Transfer to another vessel shall be authorized by the department upon receipt of a written request from the permittee prior to commencing a trip on another vessel.

8565. Each permittee shall keep an accurate record of his or her fishing operations in a logbook furnished by the department. The fishing record for each trip shall be completed before any fish is landed.

8566. Drift gill net shark and swordfish permits shall only be issued to the owner or operator of a currently registered fishing vessel, who meets one of the following requirements:

(a) Possessed a valid permit to take sharks with drift gill nets with mesh size eight inches or greater in stretched mesh, or with twine size no. 18 or greater, during the 1980–81, 1981–82, or 1982–83 drift gill net shark fishery season.

(b) Landed at least 5,000 pounds of swordfish in each of three calendar years during the period January 1, 1977, through December 31, 1981. Only landings of swordfish that can be verified by landing receipts submitted to the department pursuant to Section 8011 and by landing records maintained by the department shall be used to determine qualification for the permit.

The cost of this permit shall be one hundred fifty dollars ($150) and shall be valid, unless revoked, until April 1, 1984.

This section shall remain in effect only until April 1, 1984, and as of that date is repealed unless a later enacted statute which is chaptered before April 1, 1984, deletes or extends that date.

8567. A drift gill net shark and swordfish permit shall be valid, unless revoked, from April 1 to March 31 of the following year or, if issued after the beginning of that term, for the remainder thereof. The fee for this permmit shall be one hundred fifty dollars ($150).

This section shall become operative on April 1, 1984.

8568. Drift gill net shark and swordfish permits shall be issued in two categories:

(a) A category of prior permittees, which shall consist of drift gill net shark and swordfish permittees who meet all of the following requirements:

(1) Possess a valid permit for the use of gill nets authorized pursuant to Section 8681.

(2) Possessed a valid drift gill net shark and swordfish permit during the preceding season and that permit was not subsequently revoked.

(3) During one of the two immediately preceding permit years, either landed at least 5,000 pounds of swordfish or shark or landed shark or swordfish for which the permittee was paid at least five thousand dollars ($5,000). Landings shall be verified by the applicant's submission of landing receipts as provided in Section 8011.

(b) A category of new entrants. An applicant shall be eligible for

this category if he or she does not qualify as a prior permittee and possesses a valid permit for the use of gill nets authorized pursuant to Section 8681.

This section shall become operative on April 1, 1984.

8569. Any applicant who qualifies as a prior permittee pursuant to subdivision (a) of Section 8568 shall be issued a drift gill net shark and swordfish permit. Any person whose application has been denied may appeal to the commission, submitting circumstances surrounding nonqualification for the permit, and request classification as a prior permittee. The commission may classify the appellant as a prior permittee if it finds the nonqualification of the permit was for reasons beyond the control of the applicant under the circumstances and may establish conditions for the issuance of a permit if the appellant's permit was previously revoked, or if the appellant did not apply on or before April 30.

This section shall become operative on April 1, 1984.

8570. (a) The number of drift gill net shark and swordfish permits available for new entrants shall be the difference between the number of permits issued to prior permittees and 150, if the number of prior permittees is less than 150. If the number of prior permittees is 150 or greater, no permits shall be available for new entrants.

(b) Whenever there are more applicants than there are permits available in the new entry category, a drawing shall be held to determine who will receive permits in that category. The drawing shall be held on the Wednesday closest to May 15, at the office of the Department of Fish and Game, Long Beach, California.

This section shall become operative on April 1, 1984.

8573. Drift gill nets may be used to take shark and swordfish under the permit provided in this article and are subject to the following restrictions:

(a) Nets shall not be in the water from two hours after sunrise to two hours before sunset.

(b) Nets greater than 6,000 feet in length shall not be used.

(c) Any end of the net not attached to the permittee's vessel shall be marked by a pole with a radar reflector. The reflector shall be at least six feet above the surface of the ocean and not less than 10 inches in any dimension except thickness. The permittee's permit number shall be permanently affixed to at least one buoy or float attached to the radar reflector staff. The permit number shall be at least one and one-half inches in height and all markings shall be at least one-quarter inch in width.

8574. Drift gill nets with mesh size less than 14 inches in stretched mesh shall not be used to take shark and swordfish by permittees operating under a drift gill net shark and swordfish permit.

This section shall become operative on May 1, 1985.

8575. Drift gill nets, used to take shark and swordfish under the permit provided in this article, shall not be used:

(a) From May 1 through July 31, within six nautical miles westerly,

northerly, and easterly of the shoreline of San Miguel Island between a line extending six nautical miles west magnetically from Point Bennett and a line extending six nautical miles east magnetically from Cardwell Point and within six nautical miles westerly, northerly, and easterly of the shoreline of Santa Rosa Island between a line extending six nautical miles west magnetically from Sandy Point and a line extending six nautical miles east magnetically from Skunk Point.

(b) From May 1 through July 31, within 10 nautical miles westerly, southerly, and easterly of the shoreline of San Miguel Island between a line extending 10 nautical miles west magnetically from Point Bennett and a line extending 10 nautical miles east magnetically from Cardwell Point and within 10 nautical miles westerly, southerly, and easterly of the shoreline of Santa Rosa Island between a line extending 10 nautical miles west magnetically from Sandy Point and a line extending 10 nautical miles east magnetically from Skunk Point.

(c) From May 1 through July 31, within a radius of 10 nautical miles of the west end of San Nicolas Island.

(d) From July 15 through August 14, in the ocean waters bounded as follows: beginning at Point Mugu, Ventura County; thence in a direct line to Arch Point, Santa Barbara Island; thence in a direct line to the West End of Catalina Island; thence along the northeasterly shoreline of Catalina Island to Church Rock; thence in a direct line to Dana Point, Orange County; and thence northwesterly along the mainland shore to Point Mugu.

(e) From August 15 through September 30, in ocean waters bounded as follows: beginning at Dana Point, Orange County, in a direct line to Church Rock, Catalina Island; thence in a direct line to Point La Jolla, San Diego County; and thence northwesterly along the mainland shore to Dana Point.

(f) From August 15 through September 30, in ocean waters within six nautical miles of the coastline on the northerly and easterly side of San Clemente Island, lying between a line extending six nautical miles west magnetically from the extreme northerly end of San Clemente Island to a line extending six nautical miles east magnetically from Pyramid Head.

8576. Drift gill nets shall not be used to take shark or swordfish from February 1 through April 30.

Swordfish may be taken under a permit issued pursuant to this article, subject to the following conditions:

(a) From May 1 through September 15, the incidental landings of swordfish, in pounds, by any person operating under a permit issued pursuant to this article, shall not exceed his or her landings of thresher and bonito (mako) shark, in pounds, during any calendar month. If the department determines, at any time, that the landings of swordfish in pounds by any drift gill net shark and swordfish permit holder exceeded his or her landings of shark during any calendar month, the department shall notify the permittee that his

or her permit is suspended for a period of at least two weeks, as determined by the department, beginning 48 hours after that notice has been posted by certified mail. If the permittee's permit has been suspended for a violation of this section previously during the season, the department shall notify the permittee that his or her permit is suspended for the remainder of the season, beginning 48 hours after that notice has been posted by certified mail.

(b) All landings of swordfish by holders of a drift gill net shark and swordfish permit shall be included in any determination provided in subdivision (a), regardless of whether a harpoon or drift gill net was used to take the swordfish; except that landings of swordfish shall not be included in that determination only if the permittee, who also possesses a valid permit issued pursuant to Section 8394, has surrendered his or her drift gill net shark and swordfish permit to the department. A permittee may surrender his or her permit by notifying the department's Long Beach office of his or her intentions by telegram or certified letter and by sending or delivering his or her permit to an office of the department. A permittee may reclaim his or her permit at any time during regular working hours, if the permit has not been suspended or revoked.

(c) From September 16 through January 31, swordfish may be taken under a permit issued pursuant to this article.

8577. Notwithstanding Section 8394, the director may close the drift gill net shark and swordfish fishery, the swordfish harpoon fishery, or any area where either or both fisheries are conducted, if, after a public hearing, he or she determines the action is necessary to protect the swordfish or thresher shark and bonito (mako) shark resources. If the take of either thresher and bonito (mako) shark or swordfish exceeds 1.5 million pounds during any 12-month period commencing on April 1, the department shall evaluate the status of that resource and determine if a closure is necessary. The determination shall be based on, but not be limited to, an analysis of catch-per-unit-of-effort data, the age and size composition of the catch, information of the relative contribution of individual year-classes to the fishery, and the variability of this information from prior seasons.

The director shall reopen a fishery or any fishing areas previously closed pursuant to this section if he or she determines that the conditions which necessitated the closure no longer exist.

8578. The manner of giving notice for the purposes of subdivision (a) of Section 8576 and Section 8577 shall be prescribed by regulations of the Fish and Game Commission.

8579. A permittee shall be subject to the provisions of this article whenever the permittee is using a drift gill net, unless the permittee has surrendered his or her permit to the department. A permittee may surrender his or her permit by notifying the department's Long Beach office of his or her intentions by telegram or certified letter and by sending or delivering his or her permit to a department office. A permittee may reclaim his or her permit at any time during regular

working hours, if the permit has not been suspended or revoked.

8580. It is unlawful for any permittee to sell swordfish taken by him or her to other than the persons described in Sections 8042 and 8044, or except as provided in Section 8015.

8581. Any license issued pursuant to Section 8040 or 8044 may be revoked or suspended by the commission, when requested by the department, upon a conviction for a violation of subdivision (a) of Section 8011 for failure to report, or for inaccurately reporting, shark or swordfish landings by fishermen operating under permits issued pursuant to Section 8394 or 8561.

8582. (a) The Legislature finds and declares that the intent of this article is not to permit or encourage the taking of marlin for commercial purposes.

(b) It shall be a misdemeanor for any person operating under a permit pursuant to this article to sell or possess for sale or personal use any marlin. In the event a marlin is taken incidentally in a drift gill net, the permittee shall notify the department immediately that the fish is on the boat. No marlin may be removed from the boat except for delivery to the department.

8583. This article 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. 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:

Specified laws to protect marlin, swordfish, and the shark gill net fishery are due to expire in September 1982. In order to ensure continuing protection of these fishery resources, it is necessary that this act take effect immediately.

CHAPTER 1079

An act to amend Section 12004 of, and to add Section 8685.7 to, the Fish and Game Code, relating to fish.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 8685.7 is added to the Fish and Game Code, to read:

8685.7. It is unlawful for any person to knowingly purchase any salmon, steelhead, or striped bass which were taken in California waters by the use of a gill net.

For the purpose of this section, "person" includes a broker who purchases salmon, steelhead, or striped bass which were unlawfully taken by gill net for the purpose of reselling those fish.

SEC. 2. Section 12004 of the Fish and Game Code is amended to read:

12004. (a) If the value of the fish involved exceeds four hundred dollars ($400), the maximum punishment for a violation of Section 8685.5, 8685.6, or 8685.7 is a fine of five thousand dollars ($5,000), or imprisonment in the state prison, or imprisonment in the county jail for a period not to exceed one year, or the revocation of any wholesale fish dealers license issued pursuant to Section 8040, or any combination of these penalties.

(b) If the value of the fish involved does not exceed four hundred dollars ($400), the maximum punishment for a violation of Section 8685.5, 8685.6, or 8685.7 is a fine of five hundred dollars ($500) or imprisonment in the county jail for six months, or both, as provided in Sections 12000 and 12002.

(c) With respect to any offense involving the unlawful sale or purchase of fish in violation of Section 8685.6 or 8685.7, the value of the fish shall be the reasonable value determined by the court, which shall be based upon the amount established by the parties to any sale, attempted sale, purchase, or attempted purchase of the fish.

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 1080

An act to amend Sections 1094 and 1095 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 1094 of the Unemployment Insurance Code is amended to read:

1094. Except as otherwise specifically provided in this code, the information obtained in the administration of this code shall be for the exclusive use and information of the director in discharge of his or her duties and shall not be open to the public, nor admissible in evidence in any action or special proceeding, other than one arising out of the provisions of this code, one arising out of the provisions of Division 9 (commencing with Section 10000) of the Welfare and Institutions Code to determine entitlement to, and directly connected with and limited to the administration of, public social services, or a proceeding to determine entitlement to, and directly connected with and limited to the administration of, locally provided general relief or assistance benefits or medical assistance services. Such information may be tabulated and published in statistical form for the use and information of state departments and the public, except that the name of the employing unit or of any worker shall never be divulged in the course of such tabulation or publication.

SEC. 2. Section 1095 of the Unemployment Insurance Code is amended to read:

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes:

(a) To properly present a claim for benefits.

(b) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(c) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division.

(d) To enable an employer to receive a reduction in contribution rate.

(e) To enable the Director of Social Services or his or her representatives or the State Director of Health Services or his or her representatives subject to federal law to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to the Welfare and Institutions Code, and directly connected with and limited to the administration of public social services.

(f) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with and limited to the administration of general relief or assistance.

(g) To enable county district attorneys, or their representatives, to seek criminal, civil, or administrative remedies in connection with the unlawful application for or receipt of relief provided under Division 9 (commencing with Section 10000) of the Welfare and

Institutions Code.

(h) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(i) To enable county departments of collection or their representatives to determine entitlement to medical assistance services rendered pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, and, when appropriate, to enable collection for the county's expenditures for these medical assistance services.

Nothing in this section shall be construed to authorize or permit the use of information obtained in the administration of this code by any private collection agency.

CHAPTER 1081

An act to amend Sections 1156, 3513, and 3526 of, and to add Sections 3517.7 and 3520.7 to, the Government Code, relating to state employer-employee relations.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 1156 of the Government Code is amended to read:

1156. State officers and employees may authorize deductions to be made from their salaries or wages for the payment of:

(a) Premiums on any health benefits plan provided for under Part 5 (commencing with Section 22751) of Division 5 of Title 2 of this code.

(b) Premiums on National Service Life Insurance or United States Government Converted Insurance.

(c) Dues in any bona fide association registered pursuant to Section 3520.7. Bona fide association means an organization which is comprised of employees and former employees of agencies of the State of California and the California State University and Colleges, and which does not have as one of its purposes representing such employees in their employer-employee relations with the state.

(d) Shares or obligations to any regularly chartered credit union.

(e) Recurrent fees or charges payable to a state agency under a collection plan approved by the Director of General Services and the State Controller.

(f) Premiums on any insurance policy or payments for any other membership benefit program sponsored by an employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

(g) Payments for insurance or other employee benefit programs

sponsored by a state agency under appropriate statutory authority.

(h) Membership dues, initiation fees, and general assessments of any employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

(i) Passes, tickets, or tokens issued for a period of one month, or more, by a public transportation system.

SEC. 2. Section 3513 of the Government Code is amended to read:

3513. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state and which has as one of its primary purposes representing these employees in their relations with the state.

(b) "Recognized employee organization" means an employee organization which has been recognized by the state as the exclusive representative of the employees in an appropriate unit.

(c) "State employee" means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, employees of the Department of Personnel Administration, employees of the Legislative Counsel Bureau, employees of the board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations.

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(e) "Managerial employee" means any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

(f) "Confidential employee" means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions.

(g) "Board" means the Public Employment Relations Board. The Educational Employment Relations Board established pursuant to Section 3541 shall be renamed the Public Employment Relations Board as provided in Section 3540. The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter.

(h) "Maintenance of membership" means that all employees who voluntarily are, or who voluntarily become, members of a recognized

employee organization shall remain members of such employee organization in good standing for a period as agreed to by the parties pursuant to a memorandum of understanding, commencing with the effective date of the memorandum of understanding. A maintenance of membership provision shall not apply to any employee who within 30 days prior to the expiration of the memorandum of understanding withdraws from the employee organization by sending a signed withdrawal letter to the employee organization and a copy to the State Controller's office.

(i) "State employer," or "employer," for the purposes of bargaining or meeting and conferring in good faith, means the Governor or his or her designated representatives.

SEC. 3. Section 3513 of the Government Code is amended to read:

3513. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state and which has as one of its primary purposes representing these employees in their relations with the state.

(b) "Recognized employee organization" means an employee organization which has been recognized by the state as the exclusive representative of the employees in an appropriate unit.

(c) "State employee" means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, employees of the Department of Personnel Administration, employees of the Legislative Counsel Bureau, employees of the board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations.

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(e) "Managerial employee" means any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

(f) "Confidential employee" means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions.

(g) "Board" means the Public Employment Relations Board. The Educational Employment Relations Board established pursuant to

Section 3541 shall be renamed the Public Employment Relations Board as provided in Section 3540. The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter.

(h) "Maintenance of membership" means that all employees who voluntarily are, or who voluntarily become, members of a recognized employee organization shall remain members of such employee organization in good standing for a period as agreed to by the parties pursuant to a memorandum of understanding, commencing with the effective date of the memorandum of understanding. A maintenance of membership provision shall not apply to any employee who within 30 days prior to the expiration of the memorandum of understanding withdraws from the employee organization by sending a signed withdrawal letter to the employee organization.

(i) "State employer," or "employer," for the purposes of bargaining or meeting and conferring in good faith, means the Governor or his or her designated representatives.

SEC. 4. Section 3513 of the Government Code is amended to read:

3513. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state and which has as one of its primary purposes representing these employees in their relations with the state.

(b) "Recognized employee organization" means an employee organization which has been recognized by the state as the exclusive representative of the employees in an appropriate unit.

(c) "State employee" means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, employees of the Department of Personnel Administration, employees of the Legislative Counsel Bureau, employees of the board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations.

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(e) "Managerial employee" means any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

(f) "Confidential employee" means any employee who is required to develop or present management positions with respect

to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions.

(g) "Board" means the Public Employment Relations Board. The Educational Employment Relations Board established pursuant to Section 3541 shall be renamed the Public Employment Relations Board as provided in Section 3540. The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter.

(h) "Maintenance of membership" means that all employees who voluntarily are, or who voluntarily become, members of a recognized employee organization shall remain members of such employee organization in good standing for a period as agreed to by the parties pursuant to a memorandum of understanding, commencing with the effective date of the memorandum of understanding. A maintenance of membership provision shall not apply to any employee who within 30 days prior to the expiration of the memorandum of understanding withdraws from the employee organization by sending a signed withdrawal letter to the employee organization and a copy to the State Controller's office.

(i) "State employer," or "employer," for the purposes of bargaining or meeting and conferring in good faith, means the Governor or his or her designated representatives.

(j) "Fair share fee" means the fee deducted by the state employer from the salary or wages of a state employee in an appropriate unit who does not become a member of and financially support the recognized employee organization. The fair share fee shall be used to defray the costs incurred by the recognized employee organization in fulfilling its duty to represent the employees in their employment relations with the state, and shall not exceed the standard initiation fee, membership dues, and general assessments of the recognized employee organization.

SEC. 5. Section 3513 of the Government Code is amended to read:

3513. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state and which has as one of its primary purposes representing these employees in their relations with the state.

(b) "Recognized employee organization" means an employee organization which has been recognized by the state as the exclusive representative of the employees in an appropriate unit.

(c) "State employee" means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, employees of the Department of Personnel Administration, employees of the Legislative Counsel Bureau, employees of the board, nonclerical employees of the State Personnel Board engaged

in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations.

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(e) "Managerial employee" means any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

(f) "Confidential employee" means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions.

(g) "Board" means the Public Employment Relations Board. The Educational Employment Relations Board established pursuant to Section 3541 shall be renamed the Public Employment Relations Board as provided in Section 3540. The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter.

(h) "Maintenance of membership" means that all employees who voluntarily are, or who voluntarily become, members of a recognized employee organization shall remain members of such employee organization in good standing for a period as agreed to by the parties pursuant to a memorandum of understanding, commencing with the effective date of the memorandum of understanding. A maintenance of membership provision shall not apply to any employee who within 30 days prior to the expiration of the memorandum of understanding withdraws from the employee organization by sending a signed withdrawal letter to the employee organization.

(i) "State employer," or "employer," for the purposes of bargaining or meeting and conferring in good faith, means the Governor or his or her designated representatives.

(j) "Fair share fee" means the fee deducted by the state employer from the salary or wages of a state employee in an appropriate unit who does not become a member of and financially support the recognized employee organization. The fair share fee shall be used to defray the costs incurred by the recognized employee organization in fulfilling its duty to represent the employees in their employment relations with the state, and shall not exceed the standard initiation fee, membership dues, and general assessments of the recognized employee organization.

SEC. 6. Section 3517.7 is added to the Government Code, to read:

3517.7. If the Legislature does not approve or fully fund any provision of the memorandum of understanding which requires the

expenditure of funds, either party may reopen negotiations on all or part of the memorandum of understanding.

Nothing herein shall prevent the parties from agreeing and effecting those provisions of the memorandum of understanding which have received legislative approval or those provisions which do not require legislative action.

SEC. 7. Section 3520.7 is added to the Government Code, to read:

3520.7. The state employer shall adopt reasonable rules and regulations for all of the following:

(a) Registering bona fide associations, as defined by subdivision (c) of Section 1156.

(b) Determining the status of associations as a bona fide association.

(c) Identifying the officers and representatives who officially represent these associations.

SEC. 8. Section 3526 of the Government Code is amended to read:

3526. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state, as defined in subdivision (c), and which has as one of its primary purposes representing its members in employer-employee relations.

(b) The provisions of this chapter apply only to the State of California. The "State of California" as used in this chapter means such state agencies, boards, commissions, administrative officers, or other representatives as may be designated by law, except the University of California, Hastings College of the Law, and the California State University.

(c) "Public employee," "state employee," "employee of the state," or "employee" means any person employed by the state, including employees of the Department of Personnel Administration, employees of the Legislative Counsel Bureau, the Public Employment Relations Board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations, excepting those persons elected by popular vote or appointed to office by the Governor of this state, and excepting any civil service employees of the state, employees of the University of California, Hastings College of the Law, and the California State University, managerial employees as defined in subdivision (e) of Section 3513, confidential employees as defined in subdivision (f) of Section 3513, and employees of the California Maritime Academy.

SEC. 9. It is the intent of the Legislature that if this bill and Assembly Bill 3313 or Senate Bill 1419, or both, are chaptered and become effective January 1, 1983, each of the bills amends Section 3513 of the Government Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill 3313 are both chaptered and become effective January 1, 1983, both bills amend Section 3513 of the Government Code, but Senate Bill 1419 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 3313, the amendments proposed by both bills shall be given effect and incorporated in Section 3513 in the form set forth in Section 3 of this act. Therefore, if this bill and Assembly Bill 3313 are both chaptered and become effective January 1, 1983, both bills amend Section 3513, this bill is chaptered after Assembly Bill 3313, and Senate Bill 1419 is not chaptered or as chaptered does not amend that section, Section 3 of this act shall be operative and Sections 2, 4, and 5 of this act shall not become operative.

(2) If this bill and Senate Bill 1419 are both chaptered and become effective January 1, 1983, both bills amend Section 3513 of the Government Code, but Assembly Bill 3313 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 1419, the amendments proposed by both bills shall be given effect and incorporated in Section 3513 in the form set forth in Section 4 of this act. Therefore, if this bill and Senate Bill 1419 are both chaptered and become effective January 1, 1983, both bills amend Section 3513, this bill is chaptered after Senate Bill 1419, and Assembly Bill 3313 is not chaptered or as chaptered does not amend that section, Section 4 of this act shall be operative and Sections 2, 3, and 5 of this act shall not become operative.

(3) If this bill and Assembly Bill 3313 and Senate Bill 1419 are all chaptered and become effective January 1, 1983, all three bills amend Section 3513 of the Government Code, and this bill is chaptered after Assembly Bill 3313 and Senate Bill 1419, the amendments proposed by all three bills shall be given effect and incorporated in Section 3513 in the form set forth in Section 5 of this act. Therefore, if this bill and Assembly Bill 3313 and Senate Bill 1419 are all chaptered and become effective January 1, 1983, all three bills amend Section 3513 of the Government Code, and this bill is chaptered after Assembly Bill 3313 and Senate Bill 1419, Section 5 of this act shall be operative and Sections 2, 3, and 4 of this act shall not become operative.

CHAPTER 1082

An act to amend Sections 6854 and 10133.1 of the Business and Professions Code, to amend Section 2945.1 of the Civil Code, to amend Section 9203 of the Commercial Code, to amend Sections 12100, 18027, 22011, 22050, 22052, 22054, 22054.1, 22208, 22601, 24050.1, 24052, 24054, and 24208 of, to add Sections 22050.1, 22050.2, 22057, 24050.3, 24057, and Division 11 (commencing with Section 26000) to, and to amend and renumber the heading of Division 11 (commencing with Section 27000) of, the Financial Code, to amend Section 1643 of the Insurance Code, to amend Section 639 of the

Penal Code, and to amend Section 23184 of the Revenue and Taxation Code, and to amend Section 14 of Chapter 724 of the Statutes of 1981, relating to loans.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 6854 of the Business and Professions Code is amended to read:

6854. "Collection agency" does not include any of the following unless they are conducting collection agencies:

(a) Members of the State Bar of California.

(b) Persons collecting accounts for not more than one employer if all collection efforts are carried on in the name of the employer and if an employer-employee relationship exists.

(c) Common carriers.

(d) Duly licensed real estate brokers or agents doing real estate business.

(e) Duly licensed personal property brokers, consumer finance lenders, and commercial finance lenders.

(f) Any savings and loan association subject to the jurisdiction of the Savings and Loan Commissioner of the State of California or the Federal Home Loan Bank Board.

(g) Any industrial loan company subject to the jurisdiction of the Corporations Commissioner of the State of California.

(h) Any title insurance company or underwritten title company as defined in Section 12340.5 of the Insurance Code.

"Collection agency" does not include any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of Currency of the United States.

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, 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, 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. 2.5. Section 10133.1 of the Business and Professions Code is amended to read:

10133.1. Subdivision (d) of Section 10131, subdivisio (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. 3. Section 2945.1 of the Civil Code is amended to read:

2945.1. The following definitions apply to this chapter:

(a) "Foreclosure consultant" means any person who makes any solicitation, representation, or offer to any owner to perform for compensation or who, for compensation, performs any service which such person in any manner represents will in any manner do any of the following:

(1) Stop or postpone the foreclosure sale.

(2) Obtain any forbearance from any beneficiary or mortgagee.

(3) Assist the owner to exercise the right of reinstatement provided in Section 2924c.

(4) Obtain any extension of the period within which the owner may reinstate his obligation.

(5) Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a deed of trust or mortgage on a residence in foreclosure or contained in any such deed of trust or mortgage.

(6) Assist the owner to obtain a loan or advance of funds.

(7) Avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale.

(8) Save such owner's residence from foreclosure.

(b) A foreclosure consultant does not include any of the following:

(1) A person licensed to practice law in this state when such person renders service in the course of his practice as an attorney at law.

(2) A person licensed under Division 3 (commencing with Section 12000) of the Financial Code when such person is acting as a prorater as defined therein.

(3) A person licensed under Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code when such person makes a direct loan or when such person (A) engages in acts whose performance requires licensure under such part, (B) is entitled to compensation for such acts performed in connection with the sale of a residence in foreclosure or with the arranging of a loan secured by a lien on a residence in foreclosure, (C) does not claim, demand, charge, collect, or receive any compensation until such acts have been performed or cannot be performed because of an owner's failure to make the disclosures set forth in Section 10243 of the Business and Professions Code or failure to accept an offer from a purchaser or lender ready, willing, and able to purchase a residence in foreclosure or make a loan secured by a lien on a residence in foreclosure on the terms prescribed in a listing or a loan agreement, and (D) does not acquire any interest in a residence in foreclosure directly from an owner for whom such person agreed to perform

such acts other than as a trustee or beneficiary under a deed of trust given to secure the payment of a loan or such compensation. For the purposes of this paragraph, a "direct loan" means a loan of a real estate broker's own funds secured by a deed of trust on the residence in foreclosure, which loan and deed of trust the broker in good faith attempts to assign to a lender, for an amount at least sufficient to cure all of the defaults on obligations which are then subject to a recorded notice of default, provided that, if a foreclosure sale is conducted with respect to such deed of trust, the person conducting such foreclosure sale has no interest in the residence in foreclosure or in the outcome of the sale and is not owned, controlled, or managed by the lending broker; the lending broker does not acquire any interest in the residence in foreclosure directly from the owner other than as a beneficiary under the deed of trust; and the loan is not made for the purpose or effect of avoiding or evading the provisions of this article.

(4) A person licensed under Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code when such person is acting in any capacity for which such person is licensed under such part.

(5) A person or his authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development or other department or agency of the United States or this state to provide services.

(6) A person who holds or is owed an obligation secured by a lien on any residence in foreclosure when such person performs services in connection with this obligation or lien.

(7) Any person licensed to make loans pursuant to Division 9 (commencing with Section 22000), 10 (commencing with Section 24000), or 11 (commencing with Section 26000) of the Financial Code, subject to the authority of the Commissioner of Corporations to terminate this exclusion, after notice and hearing, for any person licensed pursuant to such division upon a finding that such licensee is found to have engaged in practices described in subdivision (a) of Section 2945.

(8) Any person or entity doing business under any law of this state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, insurance companies, or any person or entity authorized under the laws of this state to conduct a title or escrow business, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of the above, and any agent or employee of the above while engaged in the business of such persons or entities.

(c) "Person" means any individual, partnership, corporation, association or other group, however organized.

(d) "Service" means and includes, but is not limited to, any of the following:

(1) Debt, budget, or financial counseling of any type.

(2) Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure.

(3) Contacting creditors on behalf of an owner of a residence in foreclosure.

(4) Arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure may cure his default and reinstate his obligation pursuant to Section 2924c.

(5) Arranging or attempting to arrange for any delay or postponement of the time of sale of the residence in foreclosure.

(6) Advising the filing of any document or assisting in any manner in the preparation of any document for filing with any bankruptcy court.

(7) Giving any advice, explanation or instruction to an owner of a residence in foreclosure which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of such an obligation, or the postponement or avoidance of a sale of a residence in foreclosure pursuant to a power of sale contained in any deed of trust.

(e) "Residence in foreclosure" means a residence as defined in Section 1695.1.

(f) "Owner" means a property owner as defined in Section 1695.1.

(g) "Contract" means any agreement, or any term thereof, between a foreclosure consultant and an owner for the rendition of any service as defined in subdivision (c).

SEC. 4. Section 9203 of the Commercial Code is amended to read:

9203. (1) Subject to the provisions of Section 4208 on the security interest of a collecting bank and Section 9113 on a security interest arising under the division on sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless

(a) The collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; and

(b) Value has been given; and

(c) The debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subdivision (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by Section 9306.

(4) A transaction, although subject to this division, is also subject to the Retail Installment Sales Act, Title 2 (commencing with Section 1801) of Part 4, Division 3 of the Civil Code; the Automobile Sales

Finance Act, Chapter 2b (commencing with Section 2981) of Title 14, Part 4, Division 3 of the Civil Code; the Industrial Loan Law, Division 7 (commencing with Section 18000) of the Financial Code; the Pawnbroker Law, Division 8 (commencing with Section 21000) of the Financial Code; the Personal Property Brokers Law, Division 9 (commencing with Section 22000) of the Financial Code; the Consumer Finance Lenders Law, Division 10 (commencing with Section 24000) of the Financial Code and the Commercial Finance Lenders Law, Division 11 (commencing with Section 26000) of the Financial Code, and in the case of conflict between the provisions of this division and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

SEC. 5. Section 12100 of the Financial Code is amended to read:

12100. The provisions of this division do not apply to any of the following:

(a) Persons or their authorized agents doing business under license and authority of the Superintendent of Banks of the State of California, or under any law of this state or of the United States relating to banks, trust companies, building or savings and loan associations, industrial loan companies, personal property brokers, credit unions, title insurance companies or underwritten title companies (as defined in Section 12402 of the Insurance Code), escrow agents subject to Division 6 (commencing with Section 17000) consumer finance lenders subject to Division 10 (commencing with Section 24000), or commercial finance lenders subject to Division 11 (commencing with Section 26000).

(b) (1) Any person which is licensed under Chapter 14A (commencing with Section 1851) of Division 1 of this code or any agent of such person when selling any travelers check (as defined in Section 1852 of this code) which is issued by such person.

(2) Any person which is licensed under Division 16 (commencing with Section 33000) of this code or any agent of such person, when selling any payment instrument (as defined in Section 33059 of this code) which is issued by such person.

(c) The services of a person licensed to practice law in this state, when such person renders services in the course of his practice as an attorney at law, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly with the prorater, check seller or casher.

(d) Any transaction in which money or other property is paid to a "joint control agent" for disbursal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

(e) A merchant-owned credit or creditors association, or a member-owned or member-controlled or member-directed association whose principal function is that of servicing the

community as a reporting agency.

(f) Any person licensed under Chapter 1 of Part 6, Division 2 of the Labor Code, when acting in any capacity for which he is licensed under such part.

(g) Any person licensed under Part 1, Division 4, of the Business and Professions Code, when acting in any capacity for which he is licensed under that part.

(h) A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditor's committee.

(i) The services of a person licensed as a certified public accountant or a public accountant in this state, when such person renders services in a course of his practice as a certified public accountant or a public accountant, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly, with the prorater, check seller or casher.

(j) Nonprofit community service organizations that are subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or are subject to the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) and whose membership consists exclusively of retailers, lenders in the consumer credit field, educators, attorneys, social service organizations, employers' or employees' organizations, and related groups, if the principal functions of such organizations are: (1) consumer credit education; (2) counseling on consumer credit problems and family budgets; and (3) arranging, and in certain cases administering, debt settlement plans, for which a charge for administrative services only may be made of 6.5 percent of the money disbursed monthly, or twelve dollars ($12) per month, whichever is the lesser, to offset expenses; provided essential records are kept in accordance with sound accounting practices, consumer funds are banked in a trust account and appropriate fidelity bond and insurance are maintained, that reports are made to debtors, and independent audits made; and further provided, however, that this subdivision shall exempt such organizations from this division only with respect to those activities described in Section 12002.1 and not with respect to those activities described in Section 12002.

(k) Any person licensed under Chapter 14 (commencing with Section 1800) of Division 1 or any agent of such person, when selling any check or draft which is drawn by such person and which is of the type described in subdivision (b) of Section 1800.5.

(*l*) Any group of banks each of which is organized under the laws of a nation other than the United States and one or more of which are licensed by the Superintendent of Banks of the State of California under Article 1 (commencing with Section 1750), Chapter 14,

Division 1, or any agent of such group, when selling any foreign currency travelers check (as defined in Section 1852) issued by such group, provided that each bank which is a member of the group is jointly and severally liable to pay such foreign currency travelers check.

(m) Any transaction of the type described in Section 1854.1.

SEC. 5.5. Section 12100 of the Financial Code is amended to read:

12100. The provisions of this division do not apply to any of the following:

(a) Persons or their authorized agents doing business under license and authority of the Superintendent of Banks of the State of California, or under any law of this state or of the United States relating to banks, trust companies, building or savings and loan associations, industrial loan companies, personal property brokers, credit unions, title insurance companies or underwritten title companies (as defined in Section 12402 of the Insurance Code), escrow agents subject to Division 6 (commencing with Section 17000), consumer finance lenders subject to Division 10 (commencing with Section 24000), or commercial finance lenders subject to Division 11 (commencing with Section 26000).

(b) (1) Any person which is licensed under Chapter 14A (commencing with Section 1851) of Division 1 of this code or any agent of such person when selling any travelers check (as defined in Section 1852 of this code) which is issued by such person.

(2) Any person which is licensed under Division 16 (commencing with Section 33000) of this code or any agent of such person, when selling any payment instrument (as defined in Section 33059 of this code) which is issued by such person.

(c) The services of a person licensed to practice law in this state, when such person renders services in the course of his practice as an attorney at law, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly with the prorater, check seller or casher.

(d) Any transaction in which money or other property is paid to a "joint control agent" for disbursal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

(e) A merchant-owned credit or creditors association, or a member-owned or member-controlled or member-directed association whose principal function is that of servicing the community as a reporting agency.

(f) Any person licensed under Chapter 1 of Part 6, Division 2 of the Labor Code, when acting in any capacity for which he is licensed under such part.

(g) Any person licensed under Part 1, Division 4, of the Business and Professions Code, when acting in any capacity for which he is licensed under that part.

(h) A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditor's committee.

(i) The services of a person licensed as a certified public accountant or a public accountant in this state, when such person renders services in a course of his practice as a certified public accountant or a public accountant, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly, with the prorater, check seller or casher.

(j) Nonprofit community service organizations that are subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or are subject to the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) and whose membership consists exclusively of retailers, lenders in the consumer credit field, educators, attorneys, social service organizations, employers' or employees' organizations, and related groups, if the principal functions of such organizations are: (1) consumer credit education; (2) counseling on consumer credit problems and family budgets; and (3) arranging, and in certain cases administering, debt settlement plans, for which a charge for administrative services only may be made of 6.5 percent of the money disbursed monthly, or twenty dollars ($20) per month, whichever is the lesser, to offset expenses; provided essential records are kept in accordance with sound accounting practices, consumer funds are banked in a trust account and appropriate fidelity bond and insurance are maintained, that reports are made to debtors, and independent audits made; and further provided, however, that this subdivision shall exempt such organizations from this division only with respect to those activities described in Section 12002.1 and not with respect to those activities described in Section 12002.

(k) Any person licensed under Chapter 14 (commencing with Section 1800) of Division 1 or any agent of such person, when selling any check or draft which is drawn by such person and which is of the type described in subdivision (b) of Section 1800.5.

(*l*) Any group of banks each of which is organized under the laws of a nation other than the United States and one or more of which are licensed by the Superintendent of Banks of the State of California under Article 1 (commencing with Section 1750), Chapter 14, Division 1, or any agent of such group, when selling any foreign currency travelers check (as defined in Section 1852) issued by such group, provided that each bank which is a member of the group is jointly and severally liable to pay such foreign currency travelers check.

(m) Any transaction of the type described in Section 1854.1.

SEC. 6. 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), the Consumer Finance Lenders Law, Division 10 (commencing with Section 24000), or the Commercial Finance Lenders Law, Division 11 (commencing with Section 26000).

SEC. 7. Section 22011 of the Financial Code is amended to read:

22011. "Commercial loan" means any loan for which any of the following apply:

(a) The borrower is a corporation, a general or limited partnership, or a joint venture.

(b) A substantial part of the security for the loan consists of property used primarily for other than personal, family, or household purposes.

(c) The borrower is self-employed, on a full- or part-time basis and represents in writing to the lender that a substantial portion of the proceeds of the loan will be used for the purpose of carrying on his or her business or businesses or acquiring a business or businesses. The lender shall not be required to ascertain that the proceeds of the loan are used in accordance with the representation.

(d) The loan is made by a broker-dealer licensed under the Corporate Securities Law of 1968 and the loan is made in accordance with applicable provisions of the Corporate Securities Law of 1968, the Securities Act of 1933, the Securities Exchange Act of 1934 and Regulation T of the Federal Reserve Board, Code of Federal Regulations, Part 220 of Title 12.

A loan which otherwise qualifies as a commercial loan is not affected by the fact that any person other than the borrower may become or be personally obligated to repay the loan as either a comaker, endorser, or guarantor.

SEC. 8. Section 22050 of the Financial Code is amended to read:

22050. This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, or licensed pawnbrokers.

SEC. 9. Section 22050.1 is added to the Financial Code, to read:

22050.1. This division does not apply to any consumer finance lender or broker licensed under the Consumer Finance Lenders Law when transacting business authorized by that law, but any such consumer finance lender or broker may become a licensee under this division upon compliance with Chapter 2 (commencing with Section 22200).

SEC. 10. Section 22050.2 is added to the Financial Code, to read:

22050.2. This division does not apply to any commercial finance lender licensed under the Commercial Finance Lenders Law when transacting business authorized by that law, but any such commercial finance lender may become a licensee under this division upon compliance with Chapter 2 (commencing with Section 22200).

SEC. 11. Section 22052 of the Financial Code is amended to read:

22052. This division does not apply to bona fide conditional contracts of sale involving the disposition of personal property, when these forms of sales agreements are not used for the purpose of evading this division.

SEC. 12. Section 22054 of the Financial Code is amended to read:

22054. In determining under Section 22053 whether a loan is a loan of a bona fide principal amount of ten thousand dollars ($10,000) or more and whether the provisions of that section are used for the purpose of evading this division, the following principles apply:

(a) If a borrower applies for a loan in a principal amount of less than ten thousand dollars ($10,000) and a loan to that borrower of a principal amount of ten thousand dollars ($10,000) or more is made by a licensed personal property broker, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than ten thousand dollars ($10,000) within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of ten thousand dollars ($10,000) or more and the provisions of Section 22053 shall be deemed to be used for the purpose of evading this division unless the loan complies with the provisions of this division relating to loans of less than ten thousand dollars ($10,000).

(b) An individual advance of money of less than ten thousand dollars ($10,000) pursuant to a revolving loan agreement or similar agreement between a borrower and a licensed personal property broker, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount, shall be deemed to be a loan of a principal amount of ten thousand dollars ($10,000) or more if the total unpaid principal amount of all loans owing by the borrower to the licensed personal property broker after any such advance, including the additional advance, is ten thousand dollars ($10,000) or more.

(c) If a loan made by a licensed personal property broker is in a principal amount of ten thousand dollars ($10,000) or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods or instruments or a lease of goods or in the form of an advance on the purchase price of any of the foregoing shall not be deemed to affect the loan or the bona fides of the amount thereof or to indicate that the provisions of Section 22053 are used for the purpose of evading this division.

This section shall be deemed declaratory of existing law and not amendatory thereof.

SEC. 13. Section 22054.1 of the Financial Code is amended to read:

22054.1. In determining under Section 22053 whether a loan is a

commercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more and whether the provisions of that section are used for the purpose of evading this division, the following principles apply:

(a) If a borrower applies for a loan in a principal amount of less than five thousand dollars ($5,000), and a loan to that borrower of a principal amount of five thousand dollars ($5,000) or more is made by a licensed personal property broker, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than five thousand dollars ($5,000) within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodic installments, then the loan shall not be deemed to be a commercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more and the provisions of Section 22053 shall be deemed to be used for the purpose of evading this division unless the loan complies with the provisions of this division relating to noncommercial loans of less than ten thousand dollars ($10,000).

(b) An individual advance of money of less than five thousand dollars ($5,000) pursuant to a revolving loan agreement or similar agreement between a borrower and a licensee, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount shall be deemed to be a commercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more if the total unpaid principal amount of all loans owing by the borrower to the licensee after any such advance, including the additional advance, is five thousand dollars ($5,000) or more.

(c) If a loan made by a licensee is in a principal amount of five thousand dollars ($5,000) or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods or instruments or a lease of goods or in the form of an advance on the purchase price of any of the foregoing shall not be deemed to affect the loan or the bona fides of the amount thereof or to indicate that the provisions of Section 22053 are used for the purpose of evading this division.

SEC. 14. Section 22057 is added to the Financial Code, to read:

22057. This division does not apply to any person who is a member of any class of persons, other than the class of personal property brokers, which is exempted from the restrictions on interest rates in Article XV of the California Constitution by the provisions of that article or by a statute enacted pursuant to that article.

SEC. 15. Section 22208 of the Financial Code is amended to read:

22208. (a) Each licensee 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 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 a licensee's gross income bears to the aggregate gross income of all licensees as shown by the annual financial reports to the commissioner.

(b) On or before the 30th day of May in each year, the commissioner shall notify each licensee 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.

(c) In the levying and collection of the assessment, a licensee shall neither be assessed for or be permitted to pay less than one hundred fifty dollars ($150) per year.

(d) If a licensee 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 the licensee. If, after 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 licensee shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

SEC. 16. Section 22601 of the Financial Code is amended to read:

22601. For the purpose of discovering violations of this division or securing information required by him in the administration and enforcement of this division, the commissioner may at any time investigate the loans and business and examine the books, accounts, records, and files used in the business, of every person engaged in the business of a personal property broker or broker, whether the person acts or claims to act as principal or agent, or under or without the authority of this division. For the purpose of examination the commissioner and his representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons.

SEC. 17. Section 24050.1 of the Financial Code is amended to read:

24050.1. This division does not apply to any personal property broker or broker licensed under the Personal Property Brokers Law, when transacting business authorized by that law, but any such personal property broker or broker may become a licensee under this division upon compliance with Chapter 2 (commencing with Section 24200).

SEC. 18. Section 24050.3 is added to the Financial Code, to read:

24050.3. This division does not apply to any commercial finance lender licensed under the Commercial Finance Lenders Law when transacting business authorized by that law, but any such commercial finance lender may become a licensee under this division upon compliance with Chapter 2 (commencing with Section 24200).

SEC. 19. Section 24052 of the Financial Code is amended to read:

24052. This division does not apply to bona fide conditional contracts of sale involving the disposition of personal property, when these forms of sales agreements are not used for the purpose of evading this division.

SEC. 20. Section 24054 of the Financial Code is amended to read:

24054. In determining under Section 24053 whether a loan is a loan of a bona fide principal amount of ten thousand dollars ($10,000) or more and whether the provisions of that section are used for the purpose of evading this division, the following principles apply:

(a) If a borrower applies for a loan in a principal amount of less than ten thousand dollars ($10,000) and a loan to that borrower of a principal amount of ten thousand dollars ($10,000) or more is made by a licensed consumer finance lender, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than ten thousand dollars ($10,000) within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of ten thousand dollars ($10,000) or more and the provisions of Section 24053 shall be deemed to be used for the purpose of evading this division unless the loan complies with the provisions of this division relating to loans of less than ten thousand dollars ($10,000).

(b) An individual advance of money of less than ten thousand dollars ($10,000) pursuant to a revolving loan agreement or similar agreement between a borrower and a licensed consumer finance lender, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount, shall be deemed to be a loan of a principal amount of ten thousand dollars ($10,000) or more if the total unpaid principal amount of all loans owing by the borrower to the licensed consumer finance lender after any such advance, including the additional advance, is ten thousand dollars ($10,000) or more.

(c) If a loan made by a licensed consumer finance lender is in a principal amount of ten thousand dollars ($10,000) or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods or instruments or a lease of goods or in the form of an advance on the purchase price of any of the foregoing shall not be deemed to affect the loan or the bona fides of the amount thereof or to indicate that the provisions of Section 24053 are used for the purpose of evading this division.

SEC. 21. Section 24057 is added to the Financial Code, to read:

24057. This division does not apply to any person who is a member of any class of persons, other than the class of consumer finance lenders, which is exempted from the restrictions on interest rates in Article XV of the California Constitution by the provisions of that article or by a statute enacted pursuant to that article.

SEC. 22. Section 24208 of the Financial Code is amended to read:

24208. (a) Each licensee 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 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 a licensee's gross income bears to the aggregate gross income of all licensees as shown by the annual financial reports to the commissioner.

(b) On or before the 30th day of May in each year, the commissioner shall notify each licensee 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.

(c) In the levying and collection of the assessment, a licensee shall neither be assessed for or be permitted to pay less than one hundred fifty dollars ($150) per year.

(d) If a licensee 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 the licensee. If, after 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 licensee shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

SEC. 23. Division 11 (commencing with Section 26000) is added to the Financial Code, to read:

DIVISION 11. COMMERCIAL FINANCE LENDERS

CHAPTER 1. GENERAL PROVISIONS

Article 1. Definitions

26000. This division is known and maybe cited as the "Commercial Finance Lenders Law."

26000.1. This division shall be liberally construed and applied to

promote its underlying purposes and policies, which are:

(a) To ensure an adequate supply of credit to business in this state.

(b) To simplify, clarify, and modernize the law governing commercial loans and commercial finance lenders.

(c) To foster competition among commercial finance lenders.

(d) To protect business borrowers against unfair practices by some lenders, having due regard for the interests of legitimate and scrupulous lenders.

(e) To encourage and foster a sound economic climate in this state.

26000.2. To accomplish its underlying purposes and policies, this division creates and authorizes a class of persons pursuant to Section 1 of Article XV of the Constitution.

26001. Unless the context otherwise requires, the definitions given in this article govern the construction of this division.

26003. "Charges" include the aggregate interest, fees, bonuses, commissions, brokerage, discounts, expenses, and other forms of costs charged, contracted for, or received by a licensee or any other person in connection with the investigating, arranging, negotiating, procuring, guaranteeing, making, servicing, collecting, and enforcing of a loan or forbearance of money, credit, goods, or things in action, or any other service rendered.

26005. "Charges" do not include commissions received as a licensed insurance agent or broker.

26006. "Commissioner" means the Commissioner of Corporations of the State of California.

26007.5. "Commercial loan" means any loan of a principal amount of five thousand dollars ($5,000) or more for which any of the following apply:

(a) The borrower is a corporation, a general or limited partnership, or a joint venture.

(b) A substantial part of the security for the loan consists of property used primarily for other than personal, family, or household purposes.

(c) The borrower is self-employed, on a full- or part-time basis and represents in writing to the lender that a substantial portion of the proceeds of the loan will be used for the purpose of carrying on his or her business or businesses or acquiring a business or businesses. The lender shall not be required to ascertain that the proceeds of the loan are used in accordance with the representation.

A loan which otherwise qualifies as a commercial loan is not affected by the fact that any person other than the borrower may become or be personally obligated to repay the loan as either a comaker, endorser, or guarantor.

26008. "Licensee" means any commercial finance lender who receives a license in accordance with this division.

26008.1. "Person" means an individual, a corporation, a partnership, a joint venture, an association, a joint stock company, a trust, an unincorporated organization, a government, or a political

subdivision of a government.

26009. "Commercial finance lender" includes all persons who are engaged in the business of making commercial loans.

26010. "Commercial finance lender" does not include employees regularly employed at the particular location specified in the license of the commercial finance lender.

Article 2. Exemptions

26050. This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trusts companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, or licensed pawnbrokers.

26050.2. This division does not apply to any personal property broker or broker licensed under the Personal Property Brokers Law when transacting business authorized by that law, but any such personal property broker or broker may become a licensee under this division upon compliance with Chapter 2 (commencing with Section 26200).

26050.3. This division does not apply to any consumer finance lender or broker licensed under the Consumer Finance Lenders Law when transacting business authorized by that law, but any such consumer finance lender or broker may become a licensee under this division upon compliance with Chapter 2 (commencing with Section 26200).

26051. This division does not apply to the following:

(a) 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.

(b) 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 in connection with any such business.

(c) 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 "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(d) Any corporation created pursuant to the provisions of Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

26051.1. This division does not apply to any loan of credit made by a person not licensed under this division pursuant to a plan having all of the following characteristics:

(a) Credit cards are issued pursuant to written application therefor and to the plan whereby the organization issuing such cards

shall be enabled to acquire those certain obligations which its members in good standing incur with those persons with whom the organization has entered into written agreements setting forth the plan, and where the obligations are incurred pursuant to such agreements; or whereby the organization issuing such cards shall be enabled to extend credit to its members.

(b) The fee for the credit cards is designed to cover the administrative costs of the plan and is imposed upon the issuance of the card and on annual renewal dates thereafter.

(c) Any charges, discounts, or fees resulting from the acquisition of the charges shall be paid to the organization issuing the credit cards by the persons, corporations, or associations with whom the organization has entered into such written agreements.

26051.5. In any proceeding under this law, the burden of proving an exemption is upon the person claiming it.

26052. This division does not apply to bona fide conditional contracts of sale involving the disposition of personal property, when these forms of sales agreements are not used for the purpose of evading this division.

26054.1. In determining whether a loan is a loan of a bona fide principal amount of five thousand dollars ($5,000) or more, the following principles shall apply:

(a) If a borrower applies for a loan in a principal amount of less than five thousand dollars ($5,000) and a loan to that borrower of a principal amount of five thousand dollars ($5,000) or more is made by a licensed commercial finance lender, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than five thousand dollars ($5,000) within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of five thousand dollars ($5,000) or more.

(b) An individual advance of money of less than five thousand dollars ($5,000) pursuant to a revolving loan agreement or similar agreement between a borrower and a licensed commercial finance lender, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount, shall be deemed to be a loan of a principal amount of five thousand dollars ($5,000) or more if the total unpaid principal amount of all loans owing by the borrower to the licensed commercial finance lender after any such advance, including the additional advance, is five thousand dollars ($5,000) or more.

(c) If a loan made by a licensed commercial finance lender is in a principal amount of five thousand dollars ($5,000) or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods, or instruments, or a lease of goods, or in the

form of an advance on the purchase price of any of the foregoing, shall not be deemed to affect the bona fides of the amount thereof.

26055. This division does not apply to any loans made or arranged by any person licensed as a real estate broker by the State of California and secured in whole or in part by liens on real property, or to any licensed real estate broker. A licensed real estate broker may make a loan secured by a lien on real property for sale to a commercial finance lender or arrange for a loan secured by a lien on real property to be made by a commercial finance lender without obtaining a license under this division.

26056. This division does not apply to any cemetery broker licensed under the Cemetery Act, Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code, when transacting business as authorized by the Cemetery Act.

26057. This division does not apply to any person who is a member of any class of persons, other than the class of commercial finance lenders, which is exempted from the restrictions on interest rates in Article XV of the California Constitution by the provisions of that article or by a statute enacted pursuant to that article.

CHAPTER 2. LICENSING

Article 1. Generally

26200. No person shall engage in the business of a commercial finance lender and make commercial loans in connection with which charges in excess of the rate permitted by paragraph (2) of Section 1 of Article XV of the California Constitution are contracted for, charged, or received, without obtaining a license from the commissioner.

26201. An application for a license under this division shall be in such form and contain such information as the commissioner may by rule require and shall be filed upon payment of the fee specified in Section 26202. A license issued pursuant to an application filed under this section shall be designated a master license.

26201.1. (a) A person licensed pursuant to an application filed under Section 26201 may conduct business under this division, either directly or through one or more subsidiary corporations, at such locations as are authorized by the commissioner pursuant to this section. An application to establish a location pursuant to this section shall be in such form and contain such information as the commissioner may by rule require, and shall be filed upon payment of the fee specified in Section 26202. A license issued pursuant to an application filed under this section shall be designated a subsidiary license.

(b) On approval of an application filed pursuant to this section, the commissioner shall issue an original license endorsed to authorize the conduct of business at the location specified in the application.

(c) For the purposes of this section, "subsidiary corporation"

means a corporation which is wholly owned by a licensee.

(d) This section does not apply to changes in the address or location of a location previously authorized or licensed under this section.

26202. At the time of filing the application, the applicant shall pay to the commissioner the sum of one hundred dollars ($100) as a fee for investigating the application and two hundred dollars ($200) as an application fee. The investigation fee and application fee are not refundable if an application is denied or withdrawn.

26203. The applicant shall file with the application financial statements prepared in accordance with generally accepted accounting principles, and acceptable to the commissioner, which indicate a net worth of at least twenty-five thousand dollars ($25,000). A licensee shall maintain a net worth of at least twenty-five thousand dollars ($25,000) at all times.

26206. Upon the filing of an application pursuant to Sections 26201 and 26201.1 and the payment of the fees, the commissioner shall investigate the applicant, and its general partners if the applicant is a partnership, and its officers and directors if the applicant is a corporation or association. If the commissioner determines that the applicant has satisfied the provisions of this division and does not find facts constituting reasons for denial as specified in Section 26210, the commissioner shall issue and deliver a license to the applicant to engage in business in accordance with the provisions of this division.

26207. The license shall state the name of the licensee, and if the licensee is a partnership, the names of its general partners, and if a corporation or an association, the date and place of its incorporation or organization and the address of the licensee's principal business location in this state. On the approval and licensing of a location pursuant to Section 26201.1, the commissioner shall issue an original license endorsed to show the address of the authorized location and, if applicable, the name of the subsidiary corporation licensed to operate the location.

26208. (a) Each licensee 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 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 a licensee's gross income bears to the aggregate gross income of all licensees as shown by the annual financial reports to the commissioner.

(b) On or before the 30th day of May in each year, the commissioner shall notify each licensee 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 additon to the assessment, of 1 percent of the assessment for each month or part of

a month that the payment is delayed or withheld.

(c) In the levying and collection of the assessment, a licensee shall not be assessed for or be permitted to pay less than one hundred fifty dollars ($150) per year.

(d) If a licensee 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 license issued to such licensee. 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 license is revoked or suspended, a licensee shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a license shall not affect the powers of the commissioner as provided in this division.

26209. The commissioner may by regulation require licensees to file at such times as he or she may specify such information as he or she may reasonably require regarding any changes in the information provided in any application filed pursuant to this division.

26210. (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for any of the following reasons:

(1) A false statement of a material fact has been made in the application.

(2) Any officer, director, or member of the applicant has, within the last 10 years, (i) been convicted of or pleaded nolo contendere to a crime, or (ii) 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.

(3) The applicant or any officer, director, or member of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of a foreign jurisdiction.

(b) The application shall be considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in the application within 90 days of the date of the notification.

(c) The commissioner shall within 60 days from the filing of a full and complete application for a license with the fees, either issue a license or file a statement of issues prepared in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

26211. The proceedings for a denial of a license shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner has all the powers granted therein.

26212. All money paid or collected under this division shall be deposited in the State Treasury to the credit of the General Fund.

The administration of this division shall be supported out of the General Fund.

CHAPTER 3. REGULATIONS

Article 1. General Regulations

26400. The commissioner may make general rules and regulations and specific rulings, demands, and findings for the enforcement of this division, in addition to, and within, the general purposes of this division.

26401. (a) A license shall be conspicuously posted in the place of business authorized by the license.

(b) A license is not transferable or assignable. A license issued to a partnership or limited partnership is not transferred or assigned within the meaning of this section by the death, withdrawal, or admission of a partner, general partner, or limited partner, unless the death, withdrawal, or admission dissolves the partnership to which the license was issued.

26403. (a) If a licensee desires to change its place of business to a street address other than that designated in its license, such person shall give written notice to the commissioner at least 10 days prior to the change. The commissioner shall then attach a written approval of the change and the date of the approval.

(b) If notice is not given at least 10 days prior to such change as required by subdivision (a), the commissioner may assess a civil penalty on the licensee of not to exceed five hundred dollars ($500).

26406. Licensees shall keep and use in their business, books, accounts, and records which will enable the commissioner to determine if the licensee is complying with the provisions of this division and with the rules and regulations made by the commissioner. On any loan secured in whole or in part by real property in which loan proceeds were disbursed to an independent escrow holder, licensees shall retain records and documents as set forth by rule of the commissioner adopted pursuant to Section 26400.

Upon request of the commissioner, licensees shall file an authorization for disclosure to the commissioner of financial records of the licensed business pursuant to Section 7473 of the Government Code.

26407. Licensees shall preserve their books, accounts, and records, including cards used in the card system, if any, for at least two years after making the final entry on any loan recorded therein.

26407.5. Nothing contained in Sections 26406 and 26407 shall require the maintenance or preservation of original records, provided that any information requested by the commissioner can be furnished within 48 hours excluding Saturdays, Sundays, and holidays as defined in Section 6700 and 6701 of the Government Code.

26408. Each licensee shall file a report with the commissioner

annually on or before the 15th day of March, giving such relevant information as the commissioner reasonably requires concerning the business and operations during the preceding calendar year of each licensed place of business within the state conducted by the licensee. The individual annual reports filed pursuant to this section shall be made available to the public for inspection.

The report shall be made under oath and in the form prescribed by the commissioner.

26410. The commissioner shall make and file annually with the Department of Corporations as a public record a composite of the annual reports and any comments on the reports that he or she deems in the public interest.

26411. No person shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner, any statement or representation with regard to the business subject to the provisions of this division, including the rates, terms or conditions for making or negotiating loans, which is false, misleading, or deceptive, or which omits to state material information that is necessary to make the statements therein not false, misleading, or deceptive, or, in the case of a licensee, which refers to the supervision of such business by the state or any department or official of the state.

26414. No advertising copy shall be used after its use has been disapproved by the commissioner and the licensee is notified in writing of such disapproval.

26415. The commissioner may require licensees to maintain a file of all advertising copy for a period of 90 days from the date of its use. The file shall be available to the commissioner upon request.

Article 2. Loan Regulations

26466. A loan that is secured by a lien on real property upon which an owner-occupied, single-family residence is situated may not be secured by a lien on personal property as well, with the exception of an assignment of rents in a mortgage or deed of trust.

CHAPTER 4. REVOCATION AND PENALTIES

Article 1. Revocation and Suspension of Licenses

26600. (a) Licenses issued under this division remain in effect until they are surrendered, revoked, or suspended.

(b) Surrender of a license becomes effective 30 days after receipt of an application to surrender the license or within a shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the surrender is instituted within 30 days after the application is filed. If such a proceeding is pending or instituted, surrender of a license

becomes effective at such time and upon such conditions as the commissioner determines.

26601. For the purpose of discovering violations of this division or securing information required by him or her in the administration and enforcement of this division, the commissioner may at any time investigate the loans and business and examine the books, accounts, records, and files used in the business, of every person engaged in the business of a commercial finance lender, whether the person acts or claims to act as principal or agent, or under or without the authority of this division. For the purpose of examination the commissioner and his or her representative shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons.

26602. In making any examination or investigation 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 and place a keeper in exclusive charge and custody of the books, records, accounts, and other papers in the office or place where they are usually kept. During possession no person shall remove or attempt to remove any of the books, accounts, papers, records, files, safes, and vaults, or any part thereof, except in compliance with a court order or written consent of the commissioner.

26603. The officers, employees, partners, directors, and stockholders may inspect and examine the books, accounts, papers, records, files, safes, and vaults while they are in the custody of the commissioner, and employees may make entries therein reflecting current operations or transactions.

26604. The power of investigation and examination by the commissioner is not terminated by the surrender, suspension, or revocation of any license issued by him.

26605. Whenever the commissioner deems it necessary for the general welfare of the public, he has continuous authority to exercise the powers set forth in this division whether or not an application for a license has been filed with the commissioner, any license has been issued, or if issued, has been suspended or revoked.

26606. The commissioner may require the attendance of witnesses and examine under oath all persons whose testimony he requires relative to loans or business regulated by this division or to the subject matter of any examination, investigation, or hearing.

26608. (a) The cost of each examination of a licensee or a person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of such cost in any court of competent jurisdiction. In determining the cost of an examination, the commissioner may use the estimated average hourly cost for all persons performing examinations of licensees or other persons subject to this division for the fiscal year.

(b) For the pupose of this section only, no person other than a

licensee shall be deemed to be a person subject to this division until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or by a judicial hearing in any court of competent jurisdiction.

26609. After an examination, investigation, or hearing under this division, if the commissioner deems it of public interest or advantage, he or she may certify a record to the proper prosecuting official of the county or city in which the act complained of, examined, or investigated, occurred.

26610. The commissioner may require the production for examination in this state of all books, records, and supporting data used by the licensee in the preparation of reports to the commissioner. The books, records, and supporting data shall be made available for examination by the commissioner within 10 days after written demand.

26611. The commissioner may upon three days' notice and a hearing, suspend any license for a period not exceeding 30 days, pending investigation.

26612. Any licensee may surrender any license by delivering to the commissioner written notice that he or she surrenders his or her license, but surrender of the license does not affect the licensee's civil or criminal liability for acts committed prior to surrender of the license.

26613. Whenever in the opinion of the commissioner any person is engaged in business as commercial finance lender as defined in this division without a license from the commissioner, or any licensee is violating any provision of this division, the commissioner may order that person or licensee to desist and to refrain from engaging in the business or further violating this division. If, after the order is made, a written request for a hearing is filed and no hearing is held within 30 days thereafter, the order is rescinded.

26614. Whenever the commissioner believes from evidence satisfactory to the commissioner that any person has violated or is about to violate any provision of this division, or any provision of any order, license, decision, demand, or requirement, the commissioner may bring an action, or the commissioner may request the Attorney General to bring an action in the name of the people, against that person, to enjoin that person from continuing the violation or engaging therein or doing any act in furtherance thereof. In the action the court may enter an order or judgment awarding such preliminary or final injunction as is proper.

26615. (a) The commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

(1) That the licensee has failed to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this division.

(2) That the licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

(3) That any fact or condition exists which, if it had existed at the time of the original application for such license, reasonably would have warranted the commissioner in refusing originally to issue the license.

(b) A master license may not be suspended or revoked pursuant to this section as a result of any action or failure to act by a subsidiary licensee unless grounds exist for the suspension or revocation of the master license pursuant to this section. An order suspending or revoking a license or imposing sanctions against a licensee shall not affect other licensed locations unless expressly so stated in the order.

26615.7. The commissioner may by order summarily suspend or revoke the license of any licensee if such person fails to file the report required by Section 26408 within 10 days after notice by the commissioner that such report is due and not filed. If, after such an order is made, a request for hearing is filed in writing within 30 days and the hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date.

26616. The revocation, suspension, expiration, or surrender of any license does not impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

26617. Except in cases in which the time for setting the hearing is shortened as provided in this division, the proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all cases the commissioner has all the powers granted therein.

26618. Every order, decision, license, or other official act of the commissioner is subject to judicial review in accordance with law.

Article 2. Penalties

26653. Any person including the several members, officers, directors, agents, and employees of licensees, who willfully violates or participates in the violation of any provision of the rules, orders, and regulations of the commissioner, or the provisions of this division is guilty of a misdemeanor.

SEC. 24. The heading of Division 11 (commencing with Section 27000) of the Financial Code is amended and renumbered to read:

DIVISION 11.5. NATIONAL HOUSING ACT LOANS

SEC. 25. Section 1643 of the Insurance Code is amended to read:

1643. No bank, or bank holding company, subsidiary, or affiliate thereof, or any officer or employee of a bank, bank holding company, subsidiary, or affiliate, may be licensed as an insurance agent or broker or act as an agent or broker for insurance, in this state, or

control a licensed insurance agent or broker, except that a bank or a bank holding company subsidiary, or affiliate of a bank, may be issued a license to act as a life and disability agent limited to the transaction of credit life and disability insurance, and a commercial bank may be licensed to sell insurance or act as an insurance broker as provided in Section 1208 of the Financial Code. This section shall not apply to any bank or bank holding company which, under the authorization of the Federal Reserve Board, had prior to January 1, 1976, a subsidiary or affiliate licensed to sell insurance (except that subsequent authorization to expand such activities shall be subject to this section), or to any bank holding company owning a state-chartered bank which had, prior to January 1, 1976, a subsidiary or affiliate licensed to sell insurance. This section shall not apply to any person authorized or licensed to make loans pursuant to Division 7 (commencing with Section 18000), Division 9 (commencing with Section 22000), Division 10 (commencing with Section 24000), or Division 11 (commencing with Section 26000) of the Financial Code.

For the purposes of this section, the following definitions shall apply:

(a) "Bank" means any institution in this state defined in Section 102 of the Financial Code except that such term does not include a title insurance company authorized to transact a trust business under the provisions of Article 4 (commencing with Section 12390) of Chapter 1, Part 6, of Division 2 or a trust company controlled by or under common control with a title insurance company.

(b) "Bank holding company" means the same as the definition of that term set forth in Section 2 of the Federal "Bank Holding Company Act of 1956," as amended, but limited to holding companies which control a bank authorized to accept deposits in this state.

(c) "Subsidiary" means any corporation, association, or partnership, owned in whole or part by a bank or bank holding company.

(d) "Affiliate" means any corporation, association, or partnership connected through the ownership of a 10-percent or greater interest by a common parent.

(e) "Credit life, health, and accident insurance" means insurance on the life and health of a borrower from a bank issued to secure the repayment of the amount borrowed.

(f) "Control" means the possession, by any means, of the power to direct or cause the direction of the management or activities of a licensed insurance agent or broker.

SEC. 26. Section 639 of the Penal Code is amended to read:

639. Every person who gives, offers, or agrees to give to any director, officer, or employee of a financial institution any emolument, gratuity, or reward, or any money, property, or thing of value for his own personal benefit or of personal advantage, for procuring or endeavoring to procure for any person a loan or extension of credit from such financial institution is guilty of a felony.

As used in this section and Section 639a, "financial institution" means any person or persons engaged in the business of making loans or extending credit or procuring the making of loans or extension of credit, including, but not limited to state and federal banks, savings and loan associations, trust companies, industrial loan companies, personal property brokers, consumer finance lenders, commercial finance lenders, credit unions, escrow companies, title insurance companies, insurance companies, small business investment companies, pawnbrokers, and retirement funds.

As used in this section and Section 639a the word "person" includes any person, firm, partnership, association, corporation, company, syndicate, estate, trust, business trust, or organization of any kind.

SEC. 27. Section 23184 of the Revenue and Taxation Code is amended to read:

23184. (a) Financial corporations may offset against the franchise tax the amounts paid during the income year to this state or to any county, city, town, or other political subdivisions of the state as personal property taxes, or as license fees or excise taxes for the following privileges:

(1) Operating as personal property brokers or brokers as defined in the Personal Property Brokers Law provided for in Division 9 (commencing with Section 22000) of the Financial Code, or as consumer finance lenders or brokers as defined in the Consumer Finance Lenders Law provided for in Division 10 (commencing with Section 24000) of the Financial Code, or as commercial finance lenders as defined in the Commercial Finance Lenders Law provided for in Division 11 (commencing with Section 26000) of the Financial Code. Fees paid pursuant to Sections 22202, 24202, and 26202 of the Financial Code may not be offset against the franchise tax.

(2) Engaging in the business of loaning money, advancing credit, or loaning credit or arranging for the loan of money or advancing of credit or loaning of credit.

(3) Storing, using or otherwise consuming in this state of tangible personal property by savings and loan associations. This paragraph does not apply to amounts incurred and paid beginning on and after January 1, 1980.

(b) The offset allowed to any financial corporation for any income year as provided in this section may, at the election of that financial corporation, be offset, in whole or in part, against its franchise tax for that income year or offset in whole or in part against its franchise tax in one or more of the next four succeeding years of its selection, until such time as the total amount of such offset is so utilized; provided, however, that for such purposes, offsets elected to be utilized against the franchise tax of a succeeding year shall be applied in the order of their respective years of origin and prior to the application of the offset which might otherwise be allowable for amounts paid during that income year.

(c) Notwithstanding anything to the contrary contained in this

section, the tax on financial corporations after the allowance of all offsets provided for herein shall not be less than 7.6 percent of its net income for the preceding income year nor less than the following minimum tax:

(1) In the case of financial corporations, other than credit unions whose gross income is twenty thousand dollars ($20,000) or less, one hundred dollars ($100).

(2) In the case of credit unions whose gross income is twenty thousand dollars ($20,000) or less, twenty-five dollars ($25).

(d) For purposes of this section, with respect to calendar or fiscal years ending after June 30, 1973, the tax on financial corporations after the allowance of all offsets shall not be less than 9 percent of its net income nor less than the minimum tax as provided by subdivision (c).

(e) For income years beginning after December 31, 1971, the one hundred dollars ($100) specified in paragraph (1) of subdivision (c) shall be two hundred dollars ($200) instead of one hundred dollars ($100).

(f) Any offset which a financial corporation was entitled to apply against its franchise tax for the 1980 income year but which could not be applied during such income year because of the limitations otherwise set forth or because such amounts were not paid because they were contested or not timely assessed, shall be applied, in whole or in part, against its franchise tax for the 1981 income year, and any unused offset shall be applied in like manner against its franchise tax for the next six succeeding income years.

(g) Notwithstanding anything to the contrary contained in this section, the tax on financial corporations after the allowance of all offsets provided for herein shall not be less than the tax on net income provided by Section 23151, or the minimum franchise tax, whichever is greater.

SEC. 28. Section 14 of Chapter 724 of the Statutes of 1981 is amended to read:

Sec. 14. It is the intention of the Legislature in enacting this act that any reference in any statute of this state, other than Division 9 (commencing with Section 22000) of the Financial Code, Division 10 (commencing with Section 24000) of the Financial Code, and Division 11 (commencing with Section 26000) of the Financial Code, to the exemption of personal property brokers (whether by that name, by citation of the Personal Property Brokers Law, by citation of Division 9 (commencing with Section 22000) of the Financial Code, or otherwise) from the scope or effect of the statute shall also be a reference to consumer finance lenders as defined by the Consumer Finance Lenders Law, Division 10 (commencing with Section 24000) of the Financial Code, and shall exempt consumer finance lenders from the scope or effect of the statute in the same manner as personal property brokers are exempted therefrom.

SEC. 29. It is the intention of the Legislature in enacting this act that any reference in any statute of this state, other than Division 9

(commencing with Section 22000) of the Financial Code, Division 10 (commencing with Section 24000) of the Financial Code, and Division 11 (commencing with Section 26000) of the Financial Code, to the exemption of personal property brokers (whether by that name, by citation of the Personal Property Brokers Law, by citation of Division 9 (commencing with Section 22000) of the Financial Code, or otherwise) from the scope or effect of the statute shall also be a reference to commercial finance lenders as defined by the Commercial Finance Lenders Law, Division 11 (commencing with Section 26000) of the Financial Code, and shall exempt commercial finance lenders from the scope or effect of the statute in the same manner as personal property brokers are exempted therefrom.

SEC. 30. (a) Any person licensed as a personal property broker on the effective date of this act may:

(1) Surrender his or her license and receive a license as a commercial finance lender upon payment of a five dollar ($5) transfer fee.

(2) Without surrendering his or her license, may apply for and receive a license as a commercial finance lender upon payment of a two hundred dollar ($200) application fee.

(b) Applications pursuant to this section shall not be subject to the application and fee provisions of the Commercial Finance Lenders Law.

(c) This section shall be repealed on January 1, 1984, and shall be of no force or effect on and after that date.

SEC. 31. Any person licensed as a commercial finance lender pursuant to paragraph (1) of subdivision (a) of Section 21 may continue to collect and enforce any loan made as a personal property broker in accordance with the provisions of Division 9 (commencing with Section 22000) of the Financial Code.

SEC. 32. It is the intent of the Legislature, if this bill and Assembly Bill 2921 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 2921, 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 2.5 of this act. Therefore, Section 2.5 of this act shall become operative only if this bill and Assembly Bill 2921 are both chaptered and become effective January 1, 1983, both amend Section 10133.1, and this bill is chaptered after Assembly Bill 2921, in which case Section 2 of this act shall not become operative.

SEC. 33. It is the intent of the Legislature, if this bill and Senate Bill 2046 are both chaptered and become effective January 1, 1983, both bills amend Section 12100 of the Finacial Code, and this bill is chaptered after Senate Bill 2046, that the amendments to Section 12100 proposed by both bills be given effect and incorporated in Section 12100 in the form set forth in Section 5.5 of this act. Therefore, Section 5.5 of this act shall become operative only if this bill and Senate Bill 2046 are both chaptered and become effective

January 1, 1983, both amend Section 12100, and this bill is chaptered after Senate Bill 2046, in which case Section 5 of this act shall not become operative.

SEC. 34. 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 1083

An act to amend Sections 11342, 11346.4, and 11346.7 of, and to add Section 11346.53 to the Government Code, relating to administrative regulations.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. The Legislature finds and declares that:

(1) Laws and regulations designed for application to large scale entities have been applied uniformly to small businesses even though the problems that gave rise to government action may not have been caused by those smaller businesses.

(2) Uniform state regulatory and reporting requirements have in numerous instances imposed unnecessary and disproportionately burdensome demands, including legal, accounting and consulting costs, upon small businesses with limited resources.

(3) The practice of treating all regulated businesses as equivalents may lead to inefficient use of regulatory agency resources, enforcement problems, and, in some cases, to actions inconsistent with health, safety, environmental and economic welfare legislation enacted by the Legislature.

(4) Alternative regulatory approaches which do not conflict with the stated objectives of applicable statutes may be available which minimize the significant economic impact of rules upon small businesses.

(5) Therefore, it is the purpose of this act, which shall be known as the Small Business Regulatory Flexibility Act, to establish a principle of regulatory practice whereby agencies shall endeavor, consistent with the objectives of the regulation and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses subject to regulation.

(6) It is also the intent of the Legislature that the duties and

responsibilities provided for in Section 11346.52, in paragraph (4) of subdivision (a) of, and in paragraph (2) of subdivision (b) of, Section 11346.7 relating to small businesses shall be accomplished by utilizing existing staff resources and that no additional funding be provided other than that which is appropriated by the Legislature in the annual Budget Act.

SEC. 2. Section 11342 of the Government Code is amended to read:

11342. In this chapter unless otherwise specifically indicated:

(a) "State agency" and "agency" does not include an agency in the judicial or legislative departments of the state government.

(b) "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement or revision of any such rule, regulation, order or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure, except one which relates only to the internal management of the state agency. "Regulation" does not mean or include any form prescribed by a state agency or any instructions relating to the use of the form, but this provision is not a limitation upon any requirement that a regulation be adopted pursuant to this part when one is needed to implement the law under which the form is issued.

(c) "Order of repeal" means any resolution, order or other official act of a state agency which expressly repeals a regulation in whole or in part.

(d) "Office" means the Office of Administrative Law.

(e) "Small business" means:

(1) A business activity, unless excluded in paragraph (2), that is all of the following:

(A) Independently owned and operated.

(B) Not dominant in its field of operation.

(C) Not exceeding the following annual gross receipts in the categories of:

(i) Agriculture, one million dollars ($1,000,000).

(ii) General construction, nine million five hundred thousand dollars ($9,500,000).

(iii) Special trade construction, five million dollars ($5,000,000).

(iv) Retail trade, two million dollars ($2,000,000).

(v) Wholesale trade, nine million five hundred thousand dollars ($9,500,000).

(vi) Services, two million dollars ($2,000,000).

(vii) Transportation and warehousing, one million five hundred thousand dollars ($1,500,000).

(D) A manufacturing enterprise not exceeding 250 employees.

(E) A health care facility not exceeding 150 beds or one million five hundred thousand dollars ($1,500,000) in annual gross receipts.

(F) Generating and transmitting electric power not exceeding 4,500,000 kilowatts.

(2) The following professional and business activities shall not be

considered a small business for purposes of this act:

(A) Financial institutions including banks, trusts, savings and loan associations, thrift institutions, consumer and industrial finance companies, credit unions, mortgage and investment bankers, and stock and bond brokers.

(B) Insurance companies, both stock and mutual.

(C) Mineral, oil, and gas brokers; subdividers and developers.

(D) Landscape architects, architects, and building designers.

(E) Entities organized as nonprofit institutions.

(F) Entertainment activities and productions including motion pictures, stage performances, television and radio stations, and production companies.

(G) All utilities, water companies, and power transmission companies, except electrical power generating transmission companies providing less than 4.5 kilowatts.

(H) All petroleum and natural gas producers, refiners and pipelines.

SEC. 3. Section 11346.4 of the Government Code is amended to read:

11346.4. At least 45 days prior to the hearing or close of the public comment period on the adoption, amendment, or repeal of a regulation, notice of the proposed action shall be:

(a) Mailed to every person who has filed a request for notice of regulatory actions with the state agency.

(b) In cases in which the state agency is within a state department, mailed or delivered to the director of such department.

(c) Mailed to a representative number of small business enterprises or their representatives which have been identified as being affected by the proposed action.

(d) When appropriate in the judgment of the state agency, (1) mailed to any person or group of persons whom the agency believes to be interested in the proposed action and, (2) published in such form and manner as the state agency shall prescribe.

(e) Published in the California Administrative Notice Register as prepared by the Office of Administrative Law.

The effective period of a notice issued pursuant to this section shall not exceed one year from the date thereof. If the adoption, amendment, or repeal of a regulation proposed in such notice is not completed and transmitted to the office within such period of one year, a notice of the proposed action shall again be issued pursuant to the provisions of this article.

Once the adoption, amendment, or repeal is completed and approved by the office, no further adoption, amendment or repeal to the noticed regulation shall be made without subsequent notice being given.

The office may refuse to publish a notice submitted to it if the agency has failed to comply with the provisions of this article.

The Office of Administrative Law shall make the California Administrative Notice Register available to the public and state

agencies at a nominal cost which is consistent with a policy of encouraging the widest possible notice distribution to interested persons.

The Office of State Printing shall provide the same priority for printing the California Administrative Notice Register as is provided for printing legislative publications.

Where the form or manner of notice is prescribed by statute in any particular case, in addition to filing and mailing notice as required herein, the notice shall be published, posted, mailed, filed or otherwise publicized as prescribed by that statute.

The failure to mail notice to any person as provided in this section shall not invalidate any action taken by a state agency pursuant to this article. Other provisions of this article shall not apply to the publication of newspaper notices under this section.

SEC. 4. Section 11346.53 is added to the Government Code, to read:

11346.53. (a) If a state agency in proposing to adopt or amend any administrative regulation, determines that such action may have a significant adverse economic impact on small business, it shall include the following information in the notice of proposed action:

(1) Identification of the types of small businesses that would be affected.

(2) A description of the projected reporting, recordkeeping and other compliance requirements that would result from the proposed action.

(3) The following statement: "The (name of agency) finds that the (adoption/amendment) of this regulation may have a significant adverse economic impact on small businesses. The (name of agency) (has/has not) considered proposed alternatives that would lessen any adverse economic impact on small business and invites you to submit such proposals. Submissions may include the following considerations:

"(A) The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to small businesses.

"(B) Consolidation or simplification of compliance and reporting requirements for small businesses.

"(C) The use of performance standards rather than design standards.

"(D) Exemption or partial exemption from the regulatory requirements for small businesses."

(b) If a state agency in adopting or amending any administrative regulation determines that such action will not have a significant adverse economic impact on small business, it shall make such a declaration in the notice of proposed action.

(c) An agency's determination and declaration that a proposed regulation may have or will not have a significant, adverse impact on small businesses shall not be grounds for the office to refuse to publish the notice of proposed action.

SEC. 5. Section 11346.7 of the Government Code, as amended by Chapter 327 of the Statutes of 1982, 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.

(4) A description of any alternatives the agency has identified that would lessen any adverse impact on small businesses. It is not the intent of this subdivision to require the agency to artificially construct alternatives or to justify why it has not identified alternatives.

(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 imposes 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.

(4) An explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses.

(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.

CHAPTER 1084

An act to amend Sections 12640.02, 12640.09, and 12640.10 of, to add Section 12640.095 to, and to repeal Section 12640.025 of, the Insurance Code, relating to insurance.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 12640.02 of the Insurance Code is amended to read:

12640.02. The definitions set forth in this article shall govern the construction of the terms used in this chapter but shall not affect any other provisions of this code.

(a) "Mortgage guaranty insurance" means:

(1) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real estate, provided the improvement on such real estate is a residential building or a condominium unit or buildings designed for occupancy by not more than four families.

(2) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a junior lien or charge on real estate, provided the improvement on such real estate is a residential building or a condominium unit or building designed for occupancy by not more than four families.

(3) Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, provided the improvement on such real estate is a building or buildings designed for occupancy by five or more

families or designed to be occupied for industrial or commercial purposes.

(4) Insurance against financial loss by reason of nonpayment of rent and other sums agreed to be paid under the terms of a written lease for the possession, use or occupancy of real estate, provided the improvement on such real estate is a building or buildings designed to be occupied for industrial or commercial purposes.

(b) "Authorized real estate security" for the purposes of this chapter means either a note, bond, or other evidence of indebtedness, not exceeding 95 percent of the fair market value of the real estate at the time the loan is made and which is secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real estate; or, a note, bond, or other evidence of indebtedness secured by a junior lien or charge on the real estate, which, when combined with all existing mortgage loan amounts, does not exceed a total indebtedness equal to 90 percent of the fair market value of the real estate at the time the junior loan is made; provided:

(1) The real estate loan secured in such manner is any type of loan which a bank, savings and loan association, mortgage banker, credit union, mortgage loan broker, 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 arrange, or would be authorized to make or arrange, disregarding any requirement applicable to such an institution that the amount of the loan not exceed a certain percentage of the value of the real estate.

(2) The improvement on such real estate is a building or buildings designed for occupancy as specified by paragraphs (1), (2) and (3) of subdivision (a) of this section.

(3) The lien on such real estate may be subject and subordinate to the following:

(i) The lien of any public bond, assessment, or tax, when no installment, call or payment of or under such bond, assessment or tax is delinquent.

(ii) Outstanding mineral, oil or timber rights, rights-of-way, easements or rights-of-way or support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.

"Authorized real estate security" also means a stock or membership certificate issued to a tenant-stockholder or resident-member by a completed fee simple cooperative housing corporation, as defined in Section 17265 of the Revenue and Taxation Code and Section 216 of the United States Internal Revenue Code.

(c) "Contingency reserve" means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles.

(d) "Policyholders surplus" means the aggregate of capital, surplus and contingency reserve.

SEC. 2. Section 12640.025 of the Insurance Code is repealed.

SEC. 3. Section 12640.09 of the Insurance Code is amended to read:

12640.09. (a) A mortgage guaranty insurer shall limit its coverage for the class of insurance defined in paragraphs (1) and (3) of subdivision (a) of Section 12640.02 to a maximum of a net of 25 percent at risk of the entire indebtedness to the insured, or in lieu thereof, a mortgage guaranty insurer may elect to pay the entire indebtedness to the insured and acquire title to the authorized real estate security

(b) A mortgage guaranty insurer shall limit its coverage for the class of insurance defined in paragraph (2) of subdivision (a) of Section 12640.02, to a maximum of a net of 25 percent of risk of the combined indebtedness of all existing mortgage loan amounts secured by all liens or charges on the real estate. In lieu thereof, a mortgage guaranty insurer may elect to pay the entire indebtedness to the insured and acquire title to the authorized real estate security.

(c) Notwithstanding subdivision (a) or (b), a mortgage guaranty insurer may extend its coverage for the class of insurance defined in paragraphs (1), (2) and (3) of subdivision (a) of Section 12640.02 beyond the limits established by subdivisions (a) and (b) of this section, provided such excess is insured by a contract of reinsurance.

(d) Notwithstanding any provision of law to the contrary, a mortgage guaranty insurer may, by contract, reinsure any insurance it transacts, provided such reinsurance shall be with either:

(1) A mortgage guaranty insurer, or

(2) A nonaffiliated insurer or reinsurer which writes any type or types of insurance or reinsurance and which meets the following requirements:

(i) Has paid-in capital of at least one million dollars ($1,000,000) and paid-in surplus of at least one million dollars ($1,000,000);

(ii) Derives, on an annual basis, at least 50 percent of its premium income from reinsurance; or, alternatively, derives at least twenty-five million dollars ($25,000,000) of premium income per year from reinsurance.

The ceding company shall establish and maintain those reserves referred to in Sections 12640.04 and 12640.16. As to the contingency reserve required by Section 12640.04, there shall be no reduction by reason of any risk ceded.

Any such insurer or reinsurer shall be authorized to contract for such reinsurance, but nothing herein contained shall be deemed to permit such insurer or reinsurer to directly write mortgage guaranty insurance.

SEC. 4. Section 12640.095 is added to the Insurance Code, to read:

12640.095. A mortgage guaranty insurer transacting the class of insurance defined in paragraph (2) of subdivision (a) of Section 12640.02 may reinsure with either the type of reinsurer defined in subdivision (d) of Section 12640.09, or, any other insurer which has received written permission from the commissioner to write the

type of insurance defined in paragraph (2) of subdivision (a) of Section 12640.02.

SEC. 5. Section 12640.10 of the Insurance Code is amended to read:

12640.10. (a) An insurer which anywhere transacts any class of insurance other than mortgage guaranty insurance defined in paragraphs (1), (3) and (4) of subdivision (a) of Section 12640.02 is not eligible for the issuance of a certificate of authority to transact such classes of mortgage guaranty insurance in this state nor for the renewal thereof. An insurer with a certificate of authority to transact the business of credit insurance in this state may also transact the business of mortgage guaranty insurance as defined in paragraph (2) of subdivision (a) of Section 12640.02, provided the insurer has received the written permission of the commissioner.

(b) An insurer which anywhere transacts the classes of insurance defined in paragraphs (2), (3) and (4) of subdivision (a) of Section 12640.02 is not eligible for the issuance of a certificate of authority to transact in this state the class of mortgage guaranty insurance defined in paragraph (1) of subdivision (a) of Section 12640.02.

(c) An insurer authorized to transact the class of insurance defined in paragraph (2) of subdivision (a) of Section 12640.02 shall maintain segregated accounts with respect to such insurance in the following manner if it anywhere transacts any other class of insurance:

(1) The minimum paid in capital and surplus required by Section 12640.03 and the reserves required to be established pursuant to Sections 12640.04 and 12640.16 shall be contributed to and maintained in the account.

(2) The income and assets attributable to the segregated account shall continuously remain identifiable with the particular account, but, unless the commissioner so orders, the assets need not be kept physically separate from other assets of the insurer. The income, gains and losses, whether or not realized, from assets attributable to the segregated account shall be credited to or charged against the account without regard to other income, gains or losses of the insurer.

(3) Assets attributable to the segregated account shall not be chargeable with any liabilities arising out of any other business of the insurer, and any assets not attributable to the account shall not be chargeable with any liabilities arising out of it.

(4) The segregated account shall be deemed an insurer for purposes of any proceedings in cases of insolvency and delinquency instituted, pursuant to applicable provisions of this code; provided, however, that such account shall not be subject to the provisions of Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1.

(5) Assets allocated to the segregated account are the property of the insurer which shall not hold itself out to be a trustee of the assets.

(6) An insurer may own a particular asset in determinate

proportions for such segregated account or for its general account.

(7) An insurer may, by an identifiable act, transfer assets for fair consideration between such segregated account and its general account.

CHAPTER 1085

An act to amend Sections 8608 and 9502 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 8608 of the Revenue and Taxation Code is amended to read:

8608. "User" includes any person who, within the meaning of the term "use" as defined in this chapter, uses fuel.

The provisions of Article 1 (commencing with Section 8701) of Chapter 3 and Article 1 (commencing with Section 8751) of Chapter 4 do not apply to a user whose sole use of fuel in this state is for the propulsion of a privately operated passenger motor vehicle or for the propulsion of a privately operated two-axle truck which the user has rented or leased for a period of 30 days or less; provided, that the fuel used, except fuel brought into this state in the fuel tank of the vehicle, is purchased from and delivered into the fuel tank of the vehicle by a vendor.

SEC. 2. Section 9502 of the Revenue and Taxation Code is amended to read:

9502. (a) Prior to imposition and collection of any tax under this part, a proposition granting authority to the county to impose the tax shall be submitted to and approved by the voters at an election. The proposition shall specify the maximum tax to be imposed and may specify the period for which the tax will be imposed.

(b) A proposition may be submitted to the voters under subdivision (a) only if (1) it is approved by the board of supervisors and a majority of the city councils of the cities having a majority of the population in the incorporated areas of the county, as provided in subdivision (c), and (2) the county and the majority of the cities having a majority of the population in the incorporated areas of the county have a written agreement with respect to allocation of the revenues between the county and the cities.

(c) If the board of supervisors approves the proposition prior to the approval of a majority of the city councils of the cities having a majority of the population in the incorporated area of the county, the approval of the other city councils to secure both of those majorities

shall be secured within one year of the approval of the board of supervisors. If the board of supervisors approves the proposition after the approval of the city councils with both of those majorities, the approval of the board of supervisors shall be made within one year of the date of the approval of the city council which results in the proposition being approved by the city councils with both of those majorities.

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 permit counties to place propositions to impose local motor vehicle fuel taxes on the ballot for the November 1982 General Election, it is necessary for this act to take effect immediately.

CHAPTER 1086

An act to amend Section 830.5 of the Penal Code, relating to peace officers.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 830.5 of the Penal Code is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Except as specified in this section, these peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agency:

(a) A parole officer of the Department of Corrections or the Department of the Youth Authority, probation officer, or deputy probation officer. Except as otherwise provided in this subdivision, the authority of such parole or probation officer shall extend only (1) to conditions of parole or of probation by any person in this state on parole or probation; (2) to the escape of any inmate or ward from a state or local institution; (3) to the transportation of such persons; and (4) to violations of any penal provisions of law which are discovered in the course of and arise in connection with his employment. A parole officer of the Department of Corrections or the Department of the Youth Authority is authorized to carry firearms but only as determined by the director on a case-by-case or unit-by-unit basis and only under such terms and conditions as are specified by the director.

(b) A correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or any employee of the Department of Corrections designated by the Director of Corrections or employee of the Board of Prison Terms designated by the Secretary of the Youth and Adult Correctional Agency or employee of the Department of the Youth Authority designated by the Director of the Department of the Youth Authority or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections or the Department of the Youth Authority, a correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or any employee of the Department of Corrections designated by the Director of Corrections. Nothing in this section shall be interpreted to require licensure pursuant to Section 12025. The director of the agency may deny or revoke for good cause a person's right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing to review, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections or the Department of the Youth Authority, the director's decision.

(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer to maintain his eligibility to carry firearms off-duty.

SEC. 2. It is the intent of the Legislature that the changes effected by this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties, and that there shall be no change in the status of individuals for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

CHAPTER 1087

An act to add Sections 241.2 and 243.2 to the Penal Code, relating to school employees.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 241.2 is added to the Penal Code, to read:

241.2. (a) When an assault is committed on school property against the person of a teacher, student teacher, school security officer, or school administrator, while engaged in the performance of his or her duties, and the person committing the offense knows or reasonably should know that the victim is a teacher, student teacher, school security officer, or school administrator engaged in the performance of his or her duties, the assault is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(b) School as used in this section means any school established pursuant to Chapter 3 (commencing with Section 25500) of Division 18.5 of the Education Code, and any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, or technical school.

SEC. 2. Section 243.2 is added to the Penal Code, to read:

243.2. (a) When a battery is committed on school property against the person of a teacher, student teacher, school security officer, or school administrator, while engaged in the performance of his or her duties, and the person committing the offense knows or reasonably should know that the victim is a teacher, student teacher, school security officer, or school administrator engaged in the performance of his or her duties, the battery is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(b) School as used in this section means any school established pursuant to Chapter 3 (commencing with Section 25500) of Division 18.5 of the Education Code, and any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, or technical school.

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 1088

An act to repeal and add Sections 604, 650, 651, 653, and 654 to, and to add and repeal Sections 653.5 and 653.7 to, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. It is the intention of this act to create a two-year statewide pilot program to evaluate the effect of revising the procedure for the commencement of proceedings in the juvenile court.

SEC. 2. Section 604 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 604 is added to the Welfare and Institutions Code, to read:

604. (a) Whenever a case is before any court upon an accusatory pleading and it is suggested or appears to the judge before whom the person is brought that the person charged was, at the date the offense is alleged to have been committed, under the age of 18 years, the judge shall immediately suspend all proceedings against the person on the charge; he or she shall examine into the age of the person, and if, from the examination, it appears to his or her satisfaction that the person was at the date the offense is alleged to have been committed under the age of 18 years, he or she shall immediately certify all of the following to the juvenile court of the county:

(1) That the person (naming him or her) is charged with a crime (briefly stating its nature).

(2) That the person appears to have been under the age of 18 years at the date the offense is alleged to have been committed, giving the date of birth of the person when known.

(3) That proceedings have been suspended against the person on the charge by reason of his or her age, with the date of the suspension.

The judge shall attach a copy of the accusatory pleading to the certification.

(b) When a court certifies a case to the juvenile court pursuant to subdivision (a), it shall be deemed that jeopardy has not attached by reason of the proceedings prior to certification, but the court may not resume proceedings in the case, nor may a new proceeding under the general law be commenced in any court with respect to the same matter unless the juvenile court has found that the minor is not a fit subject for consideration under the juvenile court law and has ordered that proceedings under the general law resume or be commenced.

(c) The certification and accusatory pleading shall be promptly

transmitted to the clerk of the juvenile court. Upon receipt thereof, the clerk of the juvenile court shall immediately notify the probation officer who shall immediately proceed in accordance with Article 16 (commencing with Section 650).

(d) 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 604 is added to the Welfare and Institutions Code, to read:

604. (a) Whenever a case is before any court upon an accusatory pleading and it is suggested or appears to the judge before whom the person charged is brought that he or she was, at the date the offense is alleged to have been committed, under the age of 18 years, the judge shall immediately suspend all proceedings against the person on the charge; the judge shall examine into the age of the person, and if, from the examination, it appears to his or her satisfaction that the person was at the date the offense is alleged to have been committed under the age of 18 years, the judge shall forthwith certify all of the following to the juvenile court of the county:

(1) That the person (naming him or her) is charged with a crime (briefly stating its nature).

(2) That the person appears to have been under the age of 18 years at the date the offense is alleged to have been committed, giving the date of birth when known.

(3) That proceedings have been suspended against the person on the charge by reason of his or her age, with the date of the suspension.

The judge shall attach a copy of the accusatory pleading to the certification.

(b) When a court certifies a case to the juvenile court pursuant to subdivision (a), it shall be deemed that jeopardy has not attached by reason of the proceedings prior to certification, but the court may not resume proceedings in the case, nor may a new proceeding under the general law be commenced in any court with respect to the same matter unless the juvenile court has found that the minor is not a fit subject for consideration under the juvenile court law and has ordered that proceedings under the general law resume or be commenced.

(c) The certification and accusatory pleading shall be promptly transmitted to the clerk of the juvenile court. Upon its receipt, the clerk of the juvenile court shall immediately notify the probation officer who shall immediately proceed in accordance with Article 16 (commencing with Section 650) to cause the filing of a petition pursuant to Section 656, except that the petition need not be verified.

SEC. 5. Section 650 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 650 is added to the Welfare and Institutions Code, to read:

650. (a) Juvenile court proceedings to declare a minor a ward of

the court pursuant to Section 601 are commenced by the filing of a petition by the probation officer.

(b) Juvenile court proceedings to declare a minor a ward of the court pursuant to Section 602 are commenced by the filing of a petition by the prosecuting attorney.

(c) 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. 7. Section 650 is added to the Welfare and Institutions Code, to read:

650. (a) A proceeding in the juvenile court to declare a minor a dependent child of the court or a ward of the court under Section 601 is commenced by the filing with the court, by the probation officer, of a petition, in conformity with the requirements of this article.

(b) A proceeding in the juvenile court to declare a minor a ward under Section 602 of the court is commenced by the filing with the court, by the prosecuting attorney as petitioner, of a petition, in conformity with the requirements of this article.

SEC. 8. Section 651 of the Welfare and Institutions Code is repealed.

SEC. 9. Section 651 is added to the Welfare and Institutions Code, to read:

651. Proceedings under this chapter may be commenced either in the juvenile court for the county in which a minor resides, or in which a minor is found, or in which the circumstances exist or acts take place to bring a minor within the provisions of Section 601 or Section 602.

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. 10. Section 651 is added to the Welfare and Institutions Code, to read:

651. Either the juvenile court in the county in which a minor resides or in the county where the minor is found or in the county in which the acts take place or the circumstances exist which are alleged to bring the minor within the provisions of Section 601 or 602, is the proper court to commence proceedings under this chapter.

SEC. 11. Section 653 of the Welfare and Institutions Code is repealed.

SEC. 12. Section 653 is added to the Welfare and Institutions Code, to read:

653. Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 601 and setting forth facts in support thereof. 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.

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. 13. Section 653 is added to the Welfare and Institutions Code, to read:

653. Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 300, 601, or 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support of the affidavit. 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. If the probation officer determines that proceedings pursuant to Section 650 should be commenced to declare a person described in Section 602 to be a ward of the juvenile court, the probation officer shall cause the affidavit to be taken to the prosecuting attorney. The prosecuting attorney shall within his or her discretionary power institute proceedings in accordance with his or her role as public prosecutor pursuant to subdivision (b) of Section 650 of this code and Section 26500 of the Government Code.

If the probation officer does not take action under Section 654 and does not file a petition in juvenile court within 21 court days after the application, or in the case of an affidavit alleging that a minor committed an offense described in Section 602 or alleging that a minor is within Section 602, does not cause the affidavit to be taken to the prosecuting attorney with 21 court days after the application, he or she shall endorse upon the affidavit of applicant his or her decision not to proceed further and his or her reasons therefor and shall immediately notify the applicant of the action taken or the decision rendered by him or her under this section. The probation officer shall retain the affidavit and his or her indorsement thereon for a period of 30 days after the notice to the applicant.

SEC. 14. Section 653.5 is added to the Welfare and Institutions Code, to read:

653.5. (a) Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer shall immediately make any investigation he or she deems necessary to determine whether proceedings in the juvenile court shall be commenced.

(b) Except as provided in subdivision (c), if the probation officer determines that proceedings pursuant to Section 650 should be commenced to declare a person to be a ward of the juvenile court

on the basis that he or she is a person described in Section 602, the probation officer shall cause the affidavit to be taken to the prosecuting attorney.

(c) Notwithstanding the provisions of subdivision (b), the probation officer shall cause the affidavit to be taken within 48 hours to the prosecuting attorney in all of the following cases:

(1) If it appears to the probation officer that the minor has been referred to the probation officer for any violation of an offense listed in subdivision (b) of Section 707.

(2) If it appears to the probation officer that the minor is under 16 years of age at the date of the offense and that the offense constitutes a second felony referral to the probation officer.

(3) If it appears to the probation officer that the minor was 16 years of age or older at the date of the offense and that the offense constitutes a felony referral to the probation officer.

The provisions of subdivision (c) shall not apply to a narcotics and drug offense set forth in Section 1000 of the Penal Code.

The prosecuting attorney shall within his or her discretionary power institute proceedings in accordance with his or her role as public prosecutor pursuant to subdivision (b) of Section 650 and Section 26500 of the Government Code. However, if it appears to the prosecuting attorney that the affidavit was not properly referred or that the minor may benefit from a program of informal supervision, he or she may refer the matter to the probation officer for whatever action the probation officer may deem appropriate.

(d) 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. 15. Section 653.7 is added to the Welfare and Institutions Code, to read:

653.7. If the probation officer does not take action under Section 654 and does not file a petition in juvenile court within 21 court days after the application, or in the case of an affidavit alleging that a minor committed an offense described in Section 602 or alleging that a minor is within Section 602, does not cause the affidavit to be taken to the prosecuting attorney within 21 court days after the application, he or she shall endorse upon the affidavit of the applicant the decision not to proceed further and the reasons therefor and shall immediately notify the applicant of the action taken or the decision rendered by him or her under this section. The probation officer shall retain the affidavit and the endorsement thereon for a period of 30 court days after the notice to the applicant.

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. 16. Section 654 of the Welfare and Institutions Code is repealed.

SEC. 17. Section 654 is added to the Welfare and Institutions Code, to read:

654. In any case in which a probation officer, after investigation of an application for petition or other investigation he or she is authorized or directed to make pursuant to this chapter concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within such jurisdiction, he or she may, in lieu of filing a petition to declare a minor a ward of the court under Section 601 or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under Section 602 or subsequent to dismissal of a petition already filed, and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, for not to exceed six months, and attempt thereby to adjust the situation which brings the minor within the jurisdiction of the court or creates the probability that he or she will soon be within such jurisdiction. Nothing in this section shall be construed to prevent the probation officer from filing a petition or requesting the prosecuting attorney to file a petition at any time within the six-month period. If the probation officer determines that the minor has not involved himself or herself in the specific programs within 60 days, the probation officer shall immediately file a petition or request that a petition be filed by the prosecuting attorney. However, when in the judgment of the probation officer the interest of the minor and the community can be protected, the probation officer shall make a diligent effort to proceed under this section.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of restricted dangerous drugs or addiction to narcotics from a county mental health service or other appropriate community agency.

Further, the probation officer with the consent of the minor and the minor's parent or guardian may provide any of the following services in lieu of filing a petition:

(a) Maintain and operate sheltered-care facilities, or contract with private or public agencies to provide such services. The placement shall be limited to a maximum of 90 days. Counseling services shall be extended to the sheltered minor and his or her family during this period of diversion services. The minor and his or her parents may be required to make full or partial reimbursement for the services rendered the minor and his or her family during the diversion process. Referrals for sheltered-care diversion may be made by the minor, his or her family, schools, any law enforcement agency, or any other private or public social service agency.

(b) Maintain and operate crisis resolution homes, or contract with private or public agencies offering those services. Residence at the facilities shall be limited to 20 days during which period individual and family counseling shall be extended the minor and his or her family. Failure to resolve the crisis within the 20-day period may result in the minor's referral to a sheltered-care facility for a period not to exceed 90 days. Referrals shall be accepted from the minor, his

or her family, schools, any law enforcement agency, or any other private or public social service agency. The minor, his or her parents, or both, may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors.

(c) Maintain and operate counseling and educational centers, or contract with private and public agencies, societies or corporations whose purpose is to provide vocational training or skills. The centers may be operated separately or in conjunction with crisis resolution homes to be operated by the probation officer. The probation officer may make referrals to the appropriate existing private or public agency offering similar services when available.

At the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall prepare and maintain a followup report of the actual program measures taken.

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. 18. Section 654 is added to the Welfare and Institutions Code, to read:

654. In any case in which a probation officer, after investigation of an application for a petition or any other investigation he or she is authorized to make concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer may, in lieu of filing a petition to declare a minor a dependent child of the court or a minor or a ward of the court under Section 601 or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under Section 602 or subsequent to dismissal of a petition already filed, and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, for not to exceed six months, and attempt thereby to adjust the situation which brings the minor within the jurisdiction of the court or creates the probability that the minor will soon be within that jurisdiction. Nothing in this section shall be construed to prevent the probation officer from filing a petition or requesting the prosecuting attorney to file a petition at any time within the six-month period. If the probation officer determines that the minor has not involved himself or herself in the specific programs within 60 days, the probation officer shall immediately file a petition or request that a petition be filed by the prosecuting attorney. However, when in the judgment of the probation officer the interest of the minor and the community can be protected, the probation officer shall make a diligent effort to proceed under this section.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of restricted dangerous drugs or addiction to narcotics from a county mental health service or other appropriate community agency.

Further, this section shall authorize the probation officer with consent of the minor and the minor's parent or guardian to provide the following services in lieu of filing a petition:

(a) Maintain and operate sheltered-care facilities, or contract with private or public agencies to provide these services. The placement shall be limited to a maximum of 90 days. Counseling services shall be extended to the sheltered minor and his or her family during this period of diversion services. The minor and his or her parents may be required to make full or partial reimbursement for the services rendered the minor and his or her family during the diversion process. Referrals for sheltered-care diversion may be made by the minor, his or her family, schools, law enforcement or any other private or public social service agency.

(b) Maintain and operate crisis resolution homes, or contract with private or public agencies offering these services. Residence at these facilities shall be limited to 20 days during which period individual and family counseling shall be extended the minor and his or her family. Failure to resolve the crisis within the 20-day period may result in the minor's referral to a sheltered-care facility for a period not to exceed 90 days. Referrals shall be accepted from the minor, his or her family, schools, law enforcement or any other private or public social service agency. The minor, his or her parents, or both, may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors.

(c) Maintain and operate counseling and educational centers, or contract with private and public agencies, societies, or corporations whose purpose is to provide vocational training or skills. The centers may be operated separately or in conjunction with crisis resolution homes to be operated by the probation officer. The probation officer shall be authorized to make referrals to the appropriate existing private or public agencies offering similar services when available.

At the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall prepare and maintain a followup report of the actual program measures taken.

SEC. 19. The provisions of Sections 4, 7, 10, 13, and 18 of this act shall be effective January 1, 1985.

CHAPTER 1089

An act to amend and repeal Section 629.5 of, and to add Section 629.5 to, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 629.5 of the Welfare and Institutions Code is amended to read:

629.5. (a) In any case in which a minor is referred to the probation officer by a school because of an act of school violence committed prior to January 1, 1983, the probation officer shall notify the school making the referral of the status, progress, and final action on the case and shall specify the reasons for the particular action.

(b) Whenever a minor is referred to the probation officer for an act of school violence, committed on or after January 1, 1983, the probation officer shall do both of the following:

(1) Report the pendency of the case to the principal of the school where the minor is enrolled at the time of the incident and to the principal of any school at which a minor enrolls after the incident but before the final disposition of the case.

(2) Report the final disposition of the case to the principal of the school where the minor is enrolled at the time of the final disposition and to the principal of any school at which the minor enrolls during the calendar year following the final disposition of the case. When reporting the final disposition of the case, the probation officer shall specify the reasons for the disposition.

(c) A school shall destroy any report received pursuant to this section not later than two calendar years after receipt of the report. However, if the minor has committed a separate act of school violence during that two-year period, the school may retain the report for two calendar years following that act.

(d) An "act of school violence" means the infliction of an unlawful injury upon any person, an attempt to unlawfully inflict an injury upon any person, or an unlawful threat to inflict an injury upon any person, under any of the following circumstances:

(1) Against any person on the grounds of any public or private elementary school, junior high school, four-year high school, senior high school, technical school, opportunity school, or regional opportunity center during the period extending from one hour before classes begin until one hour after classes end.

(2) Where the victim is a student of a school at which the minor is affiliated at the time of the incident, on any schoolday regardless of the hour of the incident, if the incident occurs under any of the following circumstances:

(A) On or near the grounds of the school where the victim is enrolled.

(B) While the victim is engaged in any school activity.

(C) While the victim is traveling to or from the school where he or she is enrolled.

(3) Against any teacher or other employee of a school with which the minor is affiliated at the time of the incident, regardless of the place or hour of the incident.

This subdivision applies to an unlawful threat to inflict an injury

upon any person if the threat is made under any of the above sets of circumstances or if the minor who makes the threat or any agent of the minor indicates that the threat is to be carried out under any of those sets of circumstances.

(e) For purposes of this section, a minor is "affiliated" with all of the following schools:

(1) Any school where he or she is enrolled, including but not limited to a school from which he or she is suspended.

(2) Any school that he or she is attending while suspended from another school.

(3) Any school from which he or she was expelled during the six months preceding the incident.

(f) 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 629.5 is added to the Welfare and Institutions Code, to read:

629.5. In any case in which a minor is referred to the probation officer by a school because of an act of school violence, the probation officer shall notify the school making the referral of the status, progress, and final disposition of the case and shall specify the reasons for the action taken in the matter.

SEC. 3. The provisions of Section 2 of this act shall be operative January 1, 1989.

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.

CHAPTER 1090

An act to add Section 725.5 to the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 725.5 is added to the Welfare and Institutions Code, to read:

725.5. In determining the judgment and order to be made in any case in which the minor is found to be a person described in Section 602, the court shall consider, in addition to other relevant and

material evidence, (1) the age of the minor, (2) the circumstances and gravity of the offense committed by the minor, and (3) the minor's previous delinquent history.

CHAPTER 1091

An act to amend Sections 626 and 652 of, and to add Section 626.5 to, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982]

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

SECTION 1. 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 thereafter 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, provided that alternative is compatible with the best interests of the minor and the community.

SEC. 2. Section 652 of the Welfare and Institutions Code is amended to read:

652. 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 601 or 602, 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 an agency pursuant to subdivision (b) of Section 626, unless that agency requests the probation officer to do so.

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 thereafter 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

taken in custody at a time and place specified in the notice. The 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 or she 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 1092

An act to amend Sections 46111 and 52820 of the Education Code, relating to schools.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 46111 of the Education Code is amended to read:

46111. No pupil in a kindergarten shall be kept in school in any day more than four hours exclusive of recesses.

This section shall not apply to the Pasadena Unified School District and counties of the third class as determined pursuant to Section 28024 of the Government Code, as it read on January 1, 1977.

SEC. 2. Section 52820 of the Education Code is amended to read:

52820. (a) A governing board may, on a districtwide basis or on behalf of one or more of its schools, request the State Board of Education to waive all or part of any section of this code, except the following:

(1) The provisions of Article 3.

(2) The identification and assessment criteria relating to any

categorical aid program.

(3) The provisions specified pursuant to Section 52033.

(4) That any waiver of provisions related to the programs identified in Section 52851 shall be granted only pursuant to the provisions of Article 3.

(5) The provisions of Sections 22000 to 24799, inclusive.

(b) The State Board of Education shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following:

(1) The educational needs of the pupils are not adequately addressed.

(2) The waiver affects a program which requires the existence of a school site council and the school site council did not approve the request.

(3) The appropriate advisory committee did not have an adequate opportunity to review the request.

Further, for a request to waive any provision of Article 3 (commencing with Section 52160) of Chapter 7, the request did not include a written summary of objections, if any, to the request made by the bilingual advisory committee required pursuant to Section 52176.

(4) Pupil and teacher protection is jeopardized.

(5) Guarantees of parental involvement are jeopardized.

(6) The request would substantially increase state costs.

(7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

(c) A waiver shall be approved or renewed by the State Board for the period of time requested by the governing board of a district, but not to exceed two years.

SEC. 3. Due to the unique circumstances concerning the kindergarten program of the Pasadena Unified School District, the Legislature hereby finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

CHAPTER 1093

An act to amend Sections 13826 and 13826.1 of, to amend, renumber, and add Section 13826.4 of, and to add Sections 13826.5 and 13826.6 to, the Penal Code, relating to crimes.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 13826 of the Penal Code is amended to read:

13826. The Legislature hereby finds and declares that violent activity by gangs is a serious and growing problem in the State of California. In enacting this chapter, the Legislature intends to support increased efforts by district attorneys' offices to prosecute the perpetrators of gang violence, support increased efforts by local law enforcement agencies to identify, investigate, and apprehend perpetrators of gang violence, support increased efforts by county probation departments to intensively supervise gang members who are on court-ordered probation, and support gang violence suppression efforts by community-based organizations.

SEC. 2. Sections 13826.1 of the Penal Code is amended to read:

13826.1. (a) There is hereby established in the Office of Criminal Justice Planning, the Gang Violence Suppression Program, a program of financial and technical assistance for district attorneys' offices, local law enforcement agencies, county probation departments, and community-based organizations which are primarily engaged in the suppression of gang violence. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of the office in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) The executive director is authorized to allocate and award funds to cities, counties, and community-based organizations in which gang violence suppression programs are established in substantial compliance with the policies and criteria set forth in this chapter.

(c) The allocation and award of funds shall be made on the application of the district attorney, chief law enforcement officer or chief probation officer of the applicant unit of government and approved by the legislative body, or on the application of the chief executive of a community-based organization. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the Gang Violence Suppression Program, be made available to support the activities set forth in this chapter. Funds awarded under this program as local assistance grants shall not be subject to review as specified in Section 14780 of the Government Code.

(d) On or before April 1, 1983, the executive director shall prepare and issue written program and administrative guidelines and procedures for the Gang Violence Suppression Program, consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of the guidelines and procedures, a complete and final draft of the guidelines and procedures shall be submitted on or before March 1, 1983, to the Chairpersons of the

Criminal Justice Committee of the Assembly and the Judiciary Committee of the Senate of the California Legislature. These guidelines shall set forth the terms and conditions upon which the Office of Criminal Justice Planning is prepared to offer grants of funds pursuant to statutory authority. The guidelines do not constitute rules, regulations, orders or standards of general application.

(e) Annually, commencing November 1, 1984, the executive director shall prepare a report to the Legislature describing in detail the operation of the statewide program and the results obtained by district attorneys' offices local law enforcement agencies, county probation departments, and community-based organizations receiving funds under this chapter and under comparable federally financed awards.

(f) Criteria for selection of district attorneys' offices, local law enforcement agencies, county probation departments, and community-based organizations to receive gang violence suppression funding shall be developed in consultation with the Gang Violence Suppression Advisory Committee whose members shall be appointed by the Executive Director of the Office of Criminal Justice Planning.

(g) The Gang Violence Suppression Advisory Committee shall be composed of five district attorneys; two chief probation officers; two representatives of community-based organizations; three attorneys primarily engaged in the practice of juvenile criminal defense; three law enforcement officials with expertise in gang-related investigations; one member from the California Youth Authority Gang Task Force nominated by the Director of the California Youth Authority; one member ofthe Department of Corrections Law Enforcement Liaison Unit nominated by the Director of the Department of Corrections; and one member from the Department of Justice nominated by the Attorney General.

SEC. 3. Section 13826.4 of the Penal Code is amended and renumbered to read:

13826.7. The Office of Criminal Justice Planning and the California Council on Criminal Justice are encouraged to utilize any federal funds that may become available for purposes of this act. This act becomes operative only if federal funds are made available for its implementation.

SEC. 4. Section 13826.4 is added to the Penal Code, to read:

13826.4. Law enforcement agencies receiving funds under this chapter shall concentrate enhanced law enforcement efforts and resources upon cases identified under criteria set forth in Section 13826.3. Enhanced law enforcement criteria efforts shall include, but not be limited to:

(a) The formation of a specialized gang violence unit whose staff shall be composed of the most highly qualified and trained personnel.

(b) The efforts of the gang violence unit shall include, but not be limited to:

(1) Increased efforts to apprehend, prosecute, and convict violent "hard core" target gang members.

(2) Increasing the clearance rate of reported crimes which are targeted as gang related

(3) Establishing more positive relations with, and encouraging the support of local citizens, community-based organizations, business representatives, and other criminal agencies.

(4) Aiding and assisting other criminal justice and governmental agencies in protecting cooperating witnesses from intimidation or retribution at the hands of gang members and their associates.

(c) Law enforcement agencies receiving funds under this program shall maintain a crime analysis capability which provides the following type of information:

(1) Identification of active gang members who have exhibited a prior criminal background.

(2) Identification of evolving or existing crime patterns that are gang related.

(3) Providing investigative leads.

(4) Maintaining statistical information pertaining to gang related criminal activity.

SEC. 5. Section 13826.5 is added to the Penal Code, to read:

13826.5. County probation departments receiving funding under this chapter shall strictly enforce court-ordered conditions of probation for gang members.

(a) County probation departments supported under the Gang Violence Suppression Program shall implement the following activities:

(1) A Gang Violence Intensive Supervision Unit dealing with gang members shall be established.

(2) Criteria used to determine which probationer shall be assigned to the Gang Violence Intensive Supervision Unit shall be approved by the district attorney having a Gang Violence Prosecution Unit described in Section 13826.2.

(3) Probationers whose cases are assigned to the intensive supervision unit must be informed of what types of behavior are prescribed or forbidden. Such notice shall be provided in both oral and written form.

(4) Probationers whose cases are assigned to the intensive supervision unit must be informed, in writing, that all court-ordered conditions of probation will be strictly enforced.

(5) Deputy probation officers in the intensive supervision unit shall have reduced probationer caseloads and shall coordinate their supervision efforts with law enforcement and prosecution personnel. Such coordination shall include informing law enforcement and prosecution personnel of the conditions set for probationers and of the strict enforcement procedures to be implemented.

(6) Deputy probation officers in the intensive supervision unit shall coordinate with the district attorney in insuring that court-ordered conditions of probation are consistently enforced.

(7) Intensive supervision unit deputy probation officers shall coordinate, whenever feasible, with community-based organizations in seeking to ensure that probationers adhere to their court-ordered conditions.

SEC. 6. Section 13826.6 is added to the Penal Code, to read:

13826.6. For purposes of this chapter, a "community-based" organization is defined as a nonprofit operation established to serve gang members, their families, schools, and the community with programs of community supervision and service which maintain community participation in the planning, operation and evaluation of their programs.

(a) Community-based organizations supported under the Gang Violence Suppression Program shall implement the following activities:

(1) Providing information to law enforcement agencies concerning gang related activities in the community.

(2) Providing information to school administrators and staff concerning gang related activities in the community.

(3) Provide conflict resolution by means of intervention or mediation to prevent and limit gang crisis situations.

(4) Increase witness cooperation through coordination with local law enforcement and prosecutors and by education of the community about the roles of these government agencies and the availability of witness protection services.

(b) Community-based organizations supported under the Gang Violence Suppression Program shall implement at least one of the following activities:

(1) Maintaining a 24-hour public telephone message center for the receipt of information and to assist individuals seeking services from the organization.

(2) Maintaining a "rumor control" public telephone service to provide accurate and reliable information to concerned citizens.

(3) Providing technical assistance and training concerning gang related activities to school staff members, law enforcement personnel, and community members including parental groups. Such training and assistance shall include coverage of how to prevent and minimize intergang confrontations.

(4) Providing recreational activities for gang members or potential gang members.

(5) Providing job training and placement services for youth.

(6) Referring gang members, as needed, to appropriate agencies for the treatment of health, psychological, and drug-related problems.

CHAPTER 1094

An act to amend Sections 328 and 707 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. 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. 1.1. 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 child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced. If the probation officer determines that it is appropriate to offer these services to the family, the probation officer shall make a referral to such services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9.

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. 2. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) The success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offense alleged to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at such hearing.

(b) The provisions of subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of one of the following offenses:

(1) Murder.

(2) Arson of an inhabited building.

(3) Robbery while armed with a dangerous or deadly weapon.

(4) Rape with force or violence or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) Any offense specified in Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purpose of robbery.

(11) Kidnapping with bodily harm.

(12) Assault with intent to murder or attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) Any offense described in Section 1203.09 of the Penal Code.

(17) Any offense described in Section 12022.5 of the Penal Code.

(18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(19) Any felony offense described in Section 136.1 or 137 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offenses alleged to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the

above criteria In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at that hearing.

SEC. 3. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) The success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offense alleged to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at such hearing.

(b) The provisions of subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of one of the following offenses:

(1) Murder.

(2) Arson of an inhabited building.

(3) Robbery while armed with a dangerous or deadly weapon.

(4) Rape with force or violence or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great

bodily harm.

(6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) Any offense specified in Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purpose of robbery.

(11) Kidnapping with bodily harm.

(12) Assault with intent to murder or attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) Any offense described in Section 1203.09 of the Penal Code.

(17) Any offense described in Section 12022.5 of the Penal Code.

(18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(19) Any felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offenses alleged to have been committed by the minor.

A determination that the minor is a fit and proper subject to be

dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at that hearing.

SEC. 3.5. It is the intent of the Legislature, if this bill and Senate Bill 51 are both chaptered and become effective January 1, 1983, both bills amend Section 707 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill 51, that the amendments to Section Bill 707 proposed by both bills be given effect and incorporated in Section 707 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 51 are both chaptered and become effective January 1, 1983, both amend Section 707, and this bill is chaptered after Senate Bill 51, in which case Section 2 of this act shall not become operative.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 14 are both chaptered and become effective on or before January 1, 1983, if Senate Bill 14 amends Section 328 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill 14, that Section 328 of the Welfare and Institutions Code, as amended by Section 12 of Senate Bill 14 be further amended on the effective date of this act in the form set forth in Section 1 of this act to incorporate the changes in Section 328 proposed by this bill. Therefore, Section 1.1 of this act shall become operative only if this bill and Senate Bill 14 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 328, and this bill is chaptered after Senate Bill 14, in which case Section 1 of this act shall become operative on the operative date of this act and Section 1.1 of this act shall not become operative.

CHAPTER 1095

An act to amend Section 89500 of the Education Code, to amend Sections 3572.5, 11031, 13920, 18708, 18708.5, 18715, 19770, 19775, 19775.1, 19775.2, 19781, 19785, 19786, 19819.6, 19819.7, 19820, 19829, 19843, 19846, 19849.5, 19875, 19889.2, 19992.3, 19994.1, and 19994.2 of, to add Sections 19815.8, 19822.5, and 19868.3 to, and to repeal Sections 18107.5, 18126, 18852, and 18941 of, the Government Code, and to amend Section 11873 of the Insurance Code, relating to state employer-employee relations.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 89500 of the Education Code is amended to read:

89500. (a) Notwithstanding any other provision of law, the trustees shall provide by rule for the government of their appointees and employees, pursuant to the provisions of this chapter and other applicable provisions of law, including, but not limited to, appointment, classification, terms, duties, pay and overtime pay, travel expenses and allowances, rates for housing and lodging, leave of absence, tenure, vacation, layoff, dismissal, demotion, suspension, sick leave and reinstatement.

The rules adopted by the trustees relating to tenure, layoff, dismissal, demotion, suspension, and reinstatement of academic and administrative employees shall be adopted on or before February 1, 1962 and become effective on July 1, 1962, with respect to employees who are academic teaching and administrative employees as defined in subdivision (1) (e) of Section 24301 as added by Chapter 1010 of the Statutes of 1972.

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

SEC. 1.2. Section 3572.5 of the Government Code is amended to read:

3572.5. In the case where the following provisions of law are in conflict with a memorandum of understanding, the memorandum of understanding shall be controlling.

(a) Part 13 (commencing with Section 22000) of Division 1 of Title 1 of, Sections 66609, 89007, 89039, 89500, 89502, 89503, 89504, 89505, 89506, 89507, 89508, 89509, 89510, 89512, 89513, 89514, 89515, 89516, 89517, 89518, 89519, 89520, 89531, 89532, 89533, 89534, 89537, 89541, 89542, 89542.5, 89543, 89544, 89545, 89546, 89550, 89551, 89552, 89553, 89554, 89555, 89556, 89700 and 89701 of, the Education Code.

(b) Sections 825, 825.2, 825.6, 3569.5, 6700, 11020, and 11021 of, Chapter 4 (commencing with Section 18150) of Part 1 of Division 5 of Title 2 of, Sections 18200, 19823, 19830, 19831, 19839, 19841, 19842, 19847, 19848, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19852, 19853, 19854, 19856.1, 19858, 19858.1, 19859, 19861, 19862, 19863, 19863.1, 19864, 19866, 19867, and 19875 of, Article 4 (commencing with Section 19869) and Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 of Division 5 of Title 2 of, the Government

Code.

(c) Sections 395, 395.01, 395.05, 395.1 and 395.3 of the Military and Veterans Code.

SEC. 1.3. Section 11031 of the Government Code is amended to read:

11031. The headquarters of elective constitutional officers (other than Members of the Legislature) shall be determined and fixed by the State Board of Control.

SEC. 1.5. Section 13920 of the Government Code is amended to read:

13920. By a majority vote, the board shall adopt general rules and regulations:

(a) Limiting the amount, time, and place of expenses and allowances to be paid to elected state officers, and officers and employees of the state provided for in Article VI of the California Constitution, while traveling on official state business.

(b) Governing such matters as are specifically committed to its jurisdiction.

(c) Governing the presentation and audit of claims against the state for which an appropriation has been made or for which a state fund is available.

(d) Governing the computation of pay in the case of any elected state officer on a monthly basis salary who is entitled to less than a full month's pay.

SEC. 1.6. Section 18107.5 of the Government Code is repealed.

SEC. 1.7. Section 18126 of the Government Code is repealed.

SEC. 2. Section 18708 of the Government Code is amended to read:

18708. The board shall cooperate with the Director of Finance, the Department of Personnel Administration, the State Board of Control, the Controller, and other state agencies, in matters not covered by this part, and not inconsistent herewith, to promote the efficient and economical administration of the state's business.

SEC. 3. Section 18708.5 of the Government Code is amended to read:

18708.5. Upon the request of the Director of the Department of Personnel Administration, the board shall examine any position exempt from civil service, and make a survey of the classification, duties, responsibilities, and proper salary range of that position with respect to comparable positions in civil service and report its findings and facts to the Director of the Department of Personnel Administration.

SEC. 4. Section 18715 of the Government Code is amended to read:

18715. Notwithstanding the provisions of Sections 905.2, 19255, and 19823, the State Personnel Board shall have the authority to review employee claims for additional reimbursement for the performance of duties outside the scope of their present classification and to authorize additional reimbursement for these duties. The

State Personnel Board shall award employee claims under this section for a period no greater than one year preceding the filing of a grievance. The provisions of this section pertaining to the amount of additional reimbursement where the board finds that an employee has performed duties outside the scope of the employee's current classification may be superseded by a memorandum of understanding reached pursuant to Section 3517.5, in instances where the employee claims to have performed duties in a classification to which he could have been temporarily appointed, transferred, reinstated, or appointed from an employment list under the provisions of this part and board rule.

SEC. 5. Section 18852 of the Government Code is repealed.

SEC. 6. Section 18941 of the Government Code is repealed.

SEC. 7. Section 19770 of the Government Code is amended to read:

19770. This part, rather than provisions of the Military and Veterans Code, governs leave for military service, rights and benefits accrued during that service, and reinstatement after that service, for civil service employees. Both the State Personnel Board and the Department of Personnel Administration have responsibilities for carrying out certain provisions of this chapter.

SEC. 8. Section 19775 of the Government Code is amended to read:

19775. An employee who is granted a long-term military leave of absence and who for a period of not less than one year immediately prior to the effective date active duty begins has had continuous state service as defined by Department of Personnel Administration rule which is not broken by a permanent separation shall be entitled to receive his or her salary or compensation for the first 30 calendar days of active duty served during the absence.

SEC. 9. Section 19775.1 of the Government Code is amended to read:

19775.1. An employee who is granted a short-term military leave of absence for military duty ordered for purposes of active military training, encampment, naval cruises, special exercises, or like activity, but not for inactive duty such as scheduled reserve drill periods, and who for a period of not less than one year immediately prior to the effective date of active duty has had continuous state service as defined by Department of Personnel Administration rule which is not broken by a permanent separation, or who has had continuous state service immediately prior to the effective date of active duty not broken by a permanent separation and sufficient recognized military service which need not be contiguous to equal one year shall be entitled to receive his or her salary or compensation for the first 30 calendar days of active duty served during the absence.

An employee who is granted emergency military leave under the provisions of Section 19773, shall receive his or her salary or compensation as a state employee while going to, engaging in, and

returning from the duty. The employee shall not receive his or her salary or compensation for more than 30 days each time he or she is granted the emergency military leave.

SEC. 9.5. Section 19775.2 of the Government Code is amended to read:

19775.2. Pay under the provisions of Sections 19775 and 19775.1, excluding emergency military leave pay provisions, shall not exceed 30 calendar days in any one fiscal year. The beginning date of active duty shall determine the fiscal year in which the pay is accumulated when the period of active duty extends into another fiscal year.

SEC. 10. Section 19781 of the Government Code is amended to read:

19781. The rights and benefits provided a person in Sections 19775.5, 19775.9, 19780, and 19997.6 shall not extend to or be granted to a person, who after January 1, 1956, voluntarily requests and obtains an extension of his or her original term of enlistment, service, or tour of duty in the recognized military service of the United States.

These rights and benefits shall not extend to or be granted to a person who was on an indefinite tour of duty, or on a tour of duty in excess of four years' duration in the recognized military service as of January 1, 1956, and who continued on that duty after January 1, 1960.

These rights and benefits shall not extend to or be granted to a person who was ordered to, or enlisted in the recognized military service after January 1, 1956, for an indefinite tour of duty or for a tour of duty in excess of four years' duration and who continues on that duty for more than four years from the first day of ordered active duty or enlistment.

Whenever the State Personnel Board or the Department of Personnel Administration finds that the time limitations imposed by this section are unreasonable to a person it shall be within the discretion of the board or the department to grant an extension of the rights and benefits to an individual for not to exceed three additional years. This section, rather than Section 395.1 of the Military and Veterans Code, governs the rights and benefits of state civil service employees.

SEC. 11. Section 19785 of the Government Code is amended to read:

19785. An employee who is entitled to reinstatement under Section 19780 or 19782 shall be considered as a person serving in state civil service under Section 19994.10 when a function in which he or she was serving when he or she entered military service is transferred to another state agency and shall be reinstated in the other agency or shall be eligible for reemployment subject to Article 2 (commencing with Section 19997) of Chapter 7 of Part 2.6 if the function of the state agency is abolished pursuant to law.

SEC. 12. Section 19786 of the Government Code is amended to read:

19786. When an employee has been reinstated after military

service in accordance with Section 19780, and any question arises relative to his or her ability or inability for any reason arising out of the military service to perform the duties of the position to which he or she has been reinstated, the board shall, upon the request of the appointing power or of the employee, hear the matter and may on its own motion or at the request of either party take any and all necessary testimony of every nature necessary to a decision on the question. If the board finds that the employee is not able for any reason arising out of the military service to carry out the usual duties of the position he or she then holds, it shall order the employee placed in a position in which the board finds he or she is capable of performing the duties in the same class or a comparable class in the same or any other state department, bureau, board, commission, or office under this part and the rules of the board covering transfer of an employee from a position under the jurisdiction of one appointing power to a position under the jurisdiction of another appointing power, without the consent of the appointing powers, where a vacancy may be made available to him or her under the provisions of this part and the rules of the board, but in no event shall the transfer constitute a promotion within the meaning of this part and the rules of the board. If a layoff is made necessary to place an employee in a position in the same class or a comparable class in accordance with the provisions of this section, the layoff shall be made under the provisions of Section 19997.3, provided that no employee who was employed prior to September 16, 1940, shall be laid off as a result of the placing of an employee in the same class or a comparable class under this section.

The board may order the employee reinstated to the department, bureau, board, commission, or office from which he or she was transferred either upon request of the employee or the appointing power from which transferred. The reinstatement may be made after a hearing as provided in this section if the board finds that the employee is at the time of the hearing able to perform the duties of the position.

SEC. 12.5. Section 19815.8 is added to the Government Code, to read:

19815.8. (a) No action or proceeding shall be brought by any person having or claiming to have a cause of action or complaint or ground for issuance of any complaint or legal remedy for wrongs or grievances based on or related to any law administered by the Department of Personnel Administration unless the action or proceeding is commenced and served within one year after the cause of action or complaint or ground for issuance of any writ or legal remedy first arose. Such a person shall not be compensated for the time subsequent to the date when the cause or ground arose unless the action or proceeding is filed and served within 90 days after the cause or ground arose. Where an appeal is taken from a decision of the department, the cause of action does not arise until the final decision of the department.

(b) Process directed to any officer or employee, or the Department of Personnel Administration, in any action or proceeding arising under this part, may be served upon the director or chief counsel.

SEC. 13. Section 19819.6 of the Government Code is amended to read:

19819.6. The Governor shall appoint a deputy director from a list of nominees submitted by the director. This deputy director shall be in addition to the deputy director appointed pursuant to Section 19815.3.

The Governor may also appoint civil service exempt labor relations officers. The total number of exempt positions in the department responsible for labor relations shall not exceed 10.

SEC. 13.5. Section 19819.7 of the Government Code is amended to read:

19819.7. Notwithstanding any other provisions of the law, it shall be the function of the division to represent the Governor regarding all the relevant provisions of law with respect to state employees found in Section 3517 and to represent the Governor by attending the meeting and conferring as required by Section 3572. The duties of the Deputy Director of Labor Relations and the labor relations officers shall be limited to the department's professional functions and responsibilities in labor relations matters pursuant to Chapter 10.3 (commencing with Section 3512) and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

SEC. 14. Section 19820 of the Government Code is amended to read:

19820. The director shall adopt general rules and regulations:

(a) Limiting the amount, time, and place of expenses and allowances to be paid to officers and employees of the state while traveling on official state business. The rules and regulations shall provide for reasonable reimbursement to an officer or employee of the state for expenses incurred by him or her to repair a privately owned vehicle which was damaged through no fault of the officer or employee; provided that the damage occurred while the vehicle was used on official state business with the permission or authorization of an employing agency.

As used in this subdivision, "officers and employees of the state" means all officers and employees of the state other than elected state officers, officers and employees of state provided for in Article VI of the California Constitution, and officers and employees of the California State University, and shall not be limited by subdivision (d) of Section 19815.

(b) Governing such matters as are specifically committed to the jurisdiction of the department.

(c) Governing the computation of pay in the case of any employee on a monthly basis salary who is entitled to less than a full month's pay.

If the provisions of this section are in conflict with the provisions

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

SEC. 14.5. Section 19822.5 is added to the Government Code, to read:

19822.5. The department shall by rule authorize such expenditures as are reasonably necessary for the meals, lodging, or travel of persons who provide nonsalaried assistance to the State Personnel Board or a designated appointing power in the preparation or conduct of written or oral examinations.

SEC. 15. Section 19829 of the Government Code is amended to read:

19829. (a) Salary ranges shall consist of minimum and maximum salary limits. The department shall provide for intermediate steps within these limits to govern the extent of the salary adjustment which an employee may receive at any one time; provided, that in classes and positions with unusual conditions or hours of work or where necessary to meet the provisions of state law recognizing differential statutory qualifications within a profession or prevailing rates and practices for comparable services in other public employment and in private business, the department may establish more than one salary range or rate or method of compensation within a class.

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

SEC. 16. Section 19843 of the Government Code is amended to read:

19843. (a) For each class or position for which a monthly or annual salary range is established by the department, the department shall establish and adjust workweek groups and shall assign each class or position to a workweek group. The department, after considering the needs of the state service and prevailing overtime compensation practices, may establish workweek groups of different lengths or of the same length but requiring different methods of recognizing or providing compensation for overtime. The department may also provide for the payment of overtime in designated classes for work performed after the normal scheduled workday or normal scheduled workweek.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be

controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 17. Section 19846 of the Government Code is amended to read:

19846. (a) It is the policy of the state that the normal workweek of permanent employees in fire suppression classes of the Department of Forestry shall not exceed 84 hours a week. Work in excess of the designated normal workweek may be compensated for in cash or compensating time off in accordance with the regulations of the department.

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

SEC. 17.3. Section 19849.5 of the Government Code is amended to read:

19849.5. The headquarters of members of all boards and commissions unless fixed by law, shall be determined and fixed by the department, and the headquarters of all other employees shall be determined and fixed by the department.

SEC. 17.5. Section 19868.3 is added to the Government Code, to read:

19868.3. Any employee of the State Department of Developmental Services performing functions which, prior to September 9, 1981, were vested in the State Department of Developmental Services, and who is transferred on or after September 9, 1981, to a regional center for the developmentally disabled as a result of a regional center undertaking the performance of developmental service functions previously performed by the department, shall be entitled, while employed in a regional center, to use for a period of five years following transfer any unused sick leave balance the employee had accumulated while in state employment and had remaining to his or her credit at the time of termination of state employment. This sick leave shall be held in a reserve account by the state to be used, if necessary, only at such time as the transferred employee's sick leave benefits accrued as a regional center employee become exhausted. When regional center sick leave benefits are exhausted, the employee shall be entitled to utilize his or her state reserve account sick leave until exhausted. The state reserve account for sick leave shall be administered according to the sick leave provisions of this article and corresponding department rules. Upon reemployment with the state, a transferred employee's sick leave credits shall be reduced by the number of hours used from the state reserve during his or her employment in

the regional center. The cost of preserving and paying for the state reserve account sick leave shall be totally funded by the state.

SEC. 18. Section 19875 of the Government Code is amended to read:

19875. (a) If an illness or injury causes temporary disability, the employee shall be placed on industrial disability leave on the fourth calendar day after the injured employee leaves work as a result of the illness or injury, except that in case the injury causes disability of more than 14 days or necessitates hospitalization, the employee shall be placed on industrial disability leave from the first day he or she leaves work or is hospitalized as a result of the injury.

(b) Notwithstanding subdivision (a), in the case of state civil service employees, employees of the Regents of the University of California, and employees of the Board of Trustees of the California State University, the disability payment shall be made from the first day the injured employee leaves work as a result of the injury, if the injury is the result of a criminal act of violence against the employee.

(c) If the provisions of this section 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.

SEC. 19. Section 19889.2 of the Government Code is amended to read:

19889.2. The provisions of this part governing the selection, classification, and tenure of employees in the regular civil service shall not apply in administering managerial personnel through a merit system utilizing "career executive assignments" unless the application is provided by State Personnel Board rule. The provisions of this part relating to punitive actions shall apply to employees serving in career executive assignments, except that termination of a career executive assignment as provided for in Section 19889.3 is not a punitive action. With reference to termination of career executive assignments, the State Personnel Board rules shall, as a minimum, afford an employee a right of appeal to the State Personnel Board for restoration of his or her assignment when he or she alleges that his or her termination was for reasons prohibited in Chapter 10 (commencing with Section 19680) of Part 2.

SEC. 20. Section 19992.3 of the Government Code is amended to read:

19992.3. (a) Performance reports shall be considered, in the manner prescribed by department rule, in determining salary increases and decreases, the order of layoffs, and the advisability of transfers, demotions, and dismissals.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to

Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 21. Section 19994.1 of the Government Code is amended to read:

19994.1. An appointing power may transfer any employee under his or her jurisdiction: (a) to another position in the same class; or (b) to another position in a different class designated as appropriate by the State Personnel Board; or (c) any employee from one location to another whether in the same position, or in a different position as specified above in (a) or (b). When a transfer under this section reasonably requires an employee to change his or her place of residence, the appointing power shall give the employee, unless the employee waives this right, a written notice of transfer 60 days in advance of the effective date of the transfer. Unless the employee waives this right, the appointing power shall provide to the employee 60 days prior to the effective date of the transfer a written notice setting forth in clear and concise language the reasons why the employee is being transferred.

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

SEC. 22. Section 19994.2 of the Government Code is amended to read:

19994.2. (a) When there are two or more employees in a class and an involuntary transfer is required to a position in the same class, or an appropriate class as designated by the State Personnel Board, in a location which reasonably requires an employee to change his or her place of residence, the department may determine the methods by which employees in the class or classes involved are to be selected for transfer. These methods may include seniority and other considerations.

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

SEC. 23. Section 11873 of the Insurance Code is amended to read:

11873. (a) Except as provided by subdivision (b), the fund shall not be subject to the provisions of the Government Code made applicable to state agencies generally or collectively, unless the

section specifically names the fund as an agency to which the provision applies.

(b) The fund shall be subject to the provisions of Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of, and Division 5 (commencing with Section 18000) of Title 2 of, the Government Code, with the exception of all of the following:

(1) Article 1 (commencing with Section 19820) and Article 2 (commencing with Section 19823) of Chapter 2 of Part 2.6 of Division 5 of Title 2 of the Government Code.

(2) Sections 19849.2, 19849.3, 19849.4, and 19849.5 of the Government Code.

(3) Chapter 4.5 (commencing with Section 19993.1) of Part 2.6 of Division 5 of Title 2 of the Government Code.

SEC. 24. It is the intent of the Legislature that the provisions of Item 8380-001-001, and Section 24.50, of Chapter 326 of the Statutes of 1982, and all of the requirements placed upon the Department of Personnel Administration by the Joint Legislative Budget Committee in the Supplemental Report of the 1982 Budget Act, dated June 25, 1982, with respect to the adjustment of and reporting of rental rates for state-owned housing, shall also apply to the Trustees of the California State University for state-owned housing under the jurisdiction of the trustees.

CHAPTER 1096

An act to amend Section 653f of the Penal Code, relating to solicitation.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 653f of the Penal Code is amended to read:

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

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

(c) Every person who solicits another to commit rape by force or violence, sodomy by force or violence, oral copulation by force or violence, or any violation of Section 264.1, 288 or 289, is punishable by imprisonment in a state prison for two, three or four years.

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

SEC. 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 1097

An act to add Section 25360 to the Government Code, and to amend Section 14101 of the Penal Code, relating to crimes.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 25360 is added to the Government Code, to read:

25360. A county may establish and maintain a facility to provide security for victims of and witnesses to crimes who have been or may be subjected to threats or intimidation for the purpose of dissuading or preventing them from attending or giving testimony at any trial, proceeding, or inquiry authorized by law.

SEC. 2. Section 14101 of the Penal Code is amended to read:

14101. (a) There is hereby created in the Governor's office the California Commission on Crime Control and Violence Prevention for the purpose of studying the root causes of violence in our society.

(b) The commission shall:

(1) Identify, review, evaluate, coordinate, and encourage research and other available information relevant to its mission and the areas of study specified in Section 14102, except that the commission shall not directly engage in research activities.

(2) Sponsor and conduct public hearings, conferences and other efforts, collect and disseminate information, and issue periodic reports relating to its findings concerning the root causes of violent

behavior.

(3) Make findings, conclusions, and recommendations applicable to its relevant areas of study, as specified in Section 14102, that will assist in the prevention and detection of the root causes of violent behavior. Any such recommendation shall contain a discussion of the immediate and long-term possible impacts of each area of study, as well as specific proposals for immediate implementation, especially looking toward the development of a broader and deeper public awareness of the root causes of, and possible solutions for, crime and violence, and hopefully leading to voluntary, more responsible personal preventative action (rather than governmental mandate), but also including, but not limited to, possible legislation, departmental regulations, funding for research, and other matters of state policy and administration.

(4) Develop a program or a series of programs for immediate and long-term implementation individually and personally by the people of California that will impact upon the root causes and the incidence of violent activities. Such programs shall focus upon preventing the development of the causes of violence and the rehabilitation of individuals, and shall contain recommendations for the effective dissemination and implementation of such programs in the major social, political, economic, and geographic centers of our state, including but not limited to, the home, the schools, and the work place.

(5) Render advice and information, as requested, to the state and municipal governments, and in response to inquiries by the public.

(6) Annually report its progress to the Legislature by January 15, 1981, and January 15, 1982, and submit its findings and recommendations in a final report to the Legislature on or before March 31, 1983.

(7) Apply to the federal government or any agency thereof, and to any other source or agency, whether public or private, for a gift or grant of funds, up to five hundred thousand dollars ($500,000), for any of the purposes of this title. The commission may also establish a separate nonprofit public benefit corporation to accept funds for the purposes of this title and to implement the commission's findings and recommendations.

(c) The commission shall consist of 25 members, who shall be broadly reflective of the general public, including ethnic minorities, women, and persons from varying economic levels, and who shall consult with the Attorney General, the Director of Social Services, and the Superintendent of Public Instruction.

The membership of the commission shall include the Attorney General or a designee, the Secretary of the Health and Welfare Agency or a designee, and the Superintendent of Public Instruction or a designee. In addition, the Attorney General shall appoint one other citizen member. Three citizen members shall be appointed by each of the following: the Senate Rules Committee, the Speaker of the Assembly, and the Judicial Council. The League of California

Cities and the County Supervisors Association of California shall each provide a list of five names to the Governor, who shall appoint two commission members from each list. In addition, the Governor shall appoint eight more commission members. Each appointing authority shall make the required appointments within 30 days of the effective date of this title.

In the event of a resignation, the inability of a member to continue service, or other vacancy, a new member shall be appointed to the commission by the original appointing authority in accordance with the requirements applicable to an original appointment.

The commission shall elect its chairperson and shall hire an executive director who shall employ such staff as is appropriate. The commission may delegate to an executive committee comprised of its members the responsibility of overseeing the operations of the commission. Such delegation, however, shall not release a commission member from the obligations imposed by this title. Office facilities and other in-kind services shall be provided by the Health and Welfare Agency.

In making appointments to the commission, each appointing authority shall be responsible for appointing persons from different backgrounds, abilities, interests, and opinions to create a balanced commission, reflective of the areas to be studied by the commission. At least one, but no more than five, persons shall be appointed from each of the following: social science, law enforcement, mental health, education, religion, business, labor, a street level law enforcement officer with at least five years' experience, a victim of a crime, a member of the legal profession, and an ex-convict.

The Governor or a designee shall call the first meeting of the commission within 45 days of the effective date of this title.

Commissioners shall be reimbursed for their travel and per diem expenses.

The commission shall expire March 31, 1983.

CHAPTER 1098

An act to amend Sections 136.1 and 1328 of the Penal Code, relating to intimidation of witnesses and victims.

[Approved by Governor September 15, 1982 Filed with Secretary of State September 16, 1982]

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

SECTION 1. Section 136.1 of the Penal Code is amended to read:

136.1. (a) Except as provided in subdivision (c), every person who knowingly and maliciously prevents or dissuades or attempts to so prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law is

guilty of a misdemeanor.

(b) Except as provided in subdivision (c), every person who attempts to prevent or dissuade another person who has been the victim of a crime or who is witness to a crime from doing any of the following is guilty of a misdemeanor:

(1) Making any report of such victimization to any peace officer or state or local law enforcement officer or probation or parole or correctional officer or prosecuting agency or to any judge

(2) Causing a complaint, indictment, information, probation or parole violation to be sought and prosecuted, and assisting in the prosecution thereof.

(3) Arresting or causing or seeking the arrest of any person in connection with such victimization.

(c) Every person doing any of the acts described in subdivision (a) or (b) knowingly and maliciously under any one or more of the following circumstances, is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years under any of the following circumstances:

(1) Where the act is accompanied by force or by an express or implied threat of force or violence, upon a witness or victim or any third person or the property of any victim, witness, or any third person.

(2) Where the act is in furtherance of a conspiracy.

(3) Where the act is committed by any person who has been convicted of any violation of this section, any predecessor law hereto or any federal statute or statute of any other state which, if the act prosecuted was committed in this state, would be a violation of this section.

(4) Where the act is committed by any person for pecuniary gain or for any other consideration acting upon the request of any other person. All parties to such a transaction are guilty of a felony.

(d) Every person attempting the commission of any act described in subdivisions (a), (b), and (c) is guilty of the offense attempted without regard to success or failure of such attempt. The fact that no person was injured physically, or in fact intimidated, shall be no defense against any prosecution under this section.

(e) Nothing in this section precludes the imposition of an enhancement for great bodily injury where the injury inflicted is significant or substantial.

(f) The use of force during the commission of any offense described in subdivision (c) shall be considered a circumstance in aggravation of the crime in imposing a term of imprisonment under subdivision (b) of Section 1170.

SEC. 2. Section 1328 of the Penal Code is amended to read:

1328. A subpoena may be served by any person, except that the defendant may not serve a subpoena in the criminal action to which he is a party, but a peace officer must serve in his county any subpoena delivered to him for service, either on the part of the people or of the defendant, and must, without delay, make a written

return of the service, subscribed by him, stating the time and place of service. The service is made by delivering a copy of the subpoena to the witness personally.

Whenever any peace officer designated in Section 830 is required as a witness before any court or magistrate in any action or proceeding in connection with a matter regarding an event or transaction which he has perceived or investigated in the course of his duties, a subpoena requiring his attendance may be served either by delivering a copy to such peace officer personally or by delivering two copies to his immediate superior or agent designated by his immediate superior to receive such service. If service is made upon the immediate superior or agent designated by the immediate superior, the immediate superior or such agent shall deliver a copy of the subpoena to the peace officer as soon as possible and in no event later than such time as will enable the peace officer to comply with the subpoena.

If the immediate superior or his designated agent upon whom service is attempted to be made knows he will be unable to deliver a copy of the subpoena to the peace officer within such time as will allow the peace officer to comply with the subpoena, such immediate superior or agent may refuse to accept service of process and is excused from any duty, liability, or penalty arising in connection with such service, upon notifying the server of such fact.

If an immediate superior or his agent is tendered service of a subpoena less than five working days prior to the date of hearing, and he is not reasonably certain he can complete the service, he may refuse acceptance.

If an immediate superior or agent upon whom service has been made, subsequently determines that he will be unable to deliver a copy of the subpoena to the peace officer within such time as will allow the peace officer to comply with the subpoena, the immediate superior or agent shall notify the server or his office or agent not less than 48 hours prior to the hearing date indicated on the subpoena, and is thereby excused from any duty, liability, or penalty arising because of his failure to deliver a copy of the subpoena to the peace officer. The server, so notified, is therewith responsible for preparing the written return of service and for notifying the originator of the subpoena if required.

CHAPTER 1099

An act to add Section 1170.15 to the Penal Code, relating to witnesses.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982]

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

SECTION 1. Section 1170.15 is added to the Penal Code, to read:

1170.15. Notwithstanding the provisions of subdivision (a) of Section 1170.1 which provide for the imposition of a subordinate term for a consecutive offense of one-third of the middle term of imprisonment, if a person is convicted of a felony, and of an additional felony which is a violation of Section 136.1 or 137 and which was committed against the victim of, or a witness or potential witness with respect to, or a person who was about to give material information pertaining to, the first felony, the subordinate term for each consecutive offense which is a felony described in this section shall consist of 100 percent of the middle term of imprisonment for the felony for which a consecutive term of imprisonment is imposed, and shall include 100 percent of any enhancements imposed pursuant to Section 12022, 12022.5, or 12022.7. A term of imprisonment imposed pursuant to this section may exceed twice the number of years imposed by the trial court as a base term pursuant to subdivision (b) of Section 1170.

SEC. 2. Section 1170.15 is added to the Penal Code, to read:

1170.15. Notwithstanding the provisions of subdivision (a) of Section 1170.1 which provide for the imposition of a subordinate term for a consecutive offense of one-third of the middle term of imprisonment, if a person is convicted of a felony, and of an additional felony which is a violation of Section 136.1 or 137 and which was committed against the victim of, or a witness or potential witness with respect to, or a person who was about to give material information pertaining to, the first felony, or of a felony violation of Section 653f which was committed to dissuade a witness or potential witness to the first felony, the subordinate term for each consecutive offense which is a felony described in this section shall consist of 100 percent of the middle term of imprisonment for the felony for which a consecutive term of imprisonment is imposed, and shall include 100 percent of any enhancements imposed pursuant to Section 12022, 12022.5, or 12022.7. A term of imprisonment imposed pursuant to this section may exceed twice the number of years imposed by the trial court as a base term pursuant to subdivision (b) of Section 1170.

SEC. 3. Section 2 of this act shall become operative only if Assembly Bill 2688 of the 1981–82 Regular Session of the Legislature is also chaptered, amends Section 653(f) of the Penal Code, and becomes operative on or before January 1, 1983, in which case Section 1 of this act shall not become operative.

CHAPTER 1100

An act to amend Section 1203.06 of, and to add Sections 152 and 1170.8 to, the Penal Code, relating to crimes.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 152 is added to the Penal Code, to read:

152. Every person who willfully threatens to use force or violence upon the person of a witness to a crime or a victim of a crime or any other person, or to damage or destroy any property of any witness, victim, or any other person, because the witness, victim, or other person has provided any assistance or information to a law enforcement officer, or to a public prosecutor in a criminal proceeding or juvenile court proceeding, is guilty of a misdemeanor.

SEC. 2. Section 1170.8 is added to the Penal Code, to read:

1170.8. Upon conviction of any felony assault or battery offense, it shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170 if the offense was committed to prevent or dissuade a person who is or may become a witness from attending upon or testifying at any trial, proceeding, or inquiry authorized by law, or if the offense was committed because the person provided assistance or information to a law enforcement officer, or to a public prosecutor in a criminal or juvenile court proceeding.

SEC. 3. Section 1203.06 of the Penal Code is amended to read:

1203.06. Notwithstanding the provisions of Section 1203:

(a) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who personally used a firearm during the commission or attempted commission of any of the following crimes:

(i) Murder.

(ii) Assault with intent to commit murder, in violation of Section 217.

(iii) Robbery, in violation of Section 211.

(iv) Kidnapping, in violation of Section 207.

(v) Kidnapping for ransom, extortion, or robbery, in violation of Section 209.

(vi) Burglary of the first degree, as defined in Section 460.

(vii) Except as provided in Section 1203.065, rape in violation of subdivision (2) of Section 261.

(viii) Assault with intent to commit rape, the infamous crime against nature, or robbery, in violation of Section 220.

(ix) Escape, in violation of Section 4530 or 4532.

(x) A felony violation of Section 136.1 or 137.

(2) Any person previously convicted of a felony specified in subparagraphs (i) through (ix) of paragraph (1), who is convicted of a subsequent felony and who was personally armed with a firearm at any time during its commission or attempted commission or was unlawfully armed with a firearm at the time of his or her arrest for the subsequent felony.

(b) (1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(2) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(3) As used in subdivision (a) "used a firearm" means to display a firearm in a menacing manner, to intentionally fire it, or to intentionally strike or hit a human being with it.

(4) As used in subdivision (a) "armed with a firearm" means to knowingly carry a firearm as a means of offense or defense.

SEC. 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 1101

An act to add Sections 136.5 and 171b to the Penal Code, relating to weapons.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 136.5 is added to the Penal Code, to read:

136.5. Any person who has upon his person a deadly weapon with the intent to use such weapon to commit a violation of Section 136.1 is guilty of an offense punishable by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 2. Section 171b is added to the Penal Code, to read:

171b. Any person, except a person who possesses or transports weapons to be used as evidence in a court of law, a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section

830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer, or a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, who brings or possesses, within any courtroom or building designated as a courthouse or court building in this state, any firearm, deadly weapon described in Section 12020 or 653k, or knife with a blade length in excess of four inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands, is guilty of a public offense punishable by imprisonment in the county jail for not more than one year, or in the state prison.

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 1102

An act to amend Sections 607 and 1769 of the Welfare and Institutions Code, relating to the Youth Authority.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 607 of the Welfare and Institutions Code is amended to read:

607. (a) The court may retain jurisdiction over any person who is found to be a ward or dependent child of the juvenile court until the ward or dependent child attains the age of 21 years, except as provided in subdivision (b).

(b) The court may retain jurisdiction over any person who is found to be a person described in Section 602 by reason of the commission, of any of the offenses listed in subdivision (b) of Section 707 until that person attains the age of 25 years if the person was committed to the Department of the Youth Authority.

(c) The court shall not discharge any person from its jurisdiction who has been committed to the Department of the Youth Authority so long as the person remains under the jurisdiction of the Department of the Youth Authority, including periods of extended

control ordered pursuant to Section 1800.

SEC. 2. Section 1769 of the Welfare and Institutions Code is amended to read:

1769. (a) Every person committed to the Department of the Youth Authority by a juvenile court shall, except as provided in subdivision (b), be discharged upon the expiration of a two-year period of control or when the person reaches his or her 21st birthday, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800).

(b) Every person committed to the Department of the Youth Authority by a juvenile court who has been found to be a person described in Section 602 by reason of the violation of any of the offenses listed in subdivision (b) of Section 707, shall be discharged upon the expiration of a two-year period of control or when the person reaches his or her 25th birthday, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800).

CHAPTER 1103

An act to amend Section 48922 of the Education Code, to amend Section 853.6 of the Penal Code, and to amend Section 827 of, and add Section 653.1 to, the Welfare and Institutions Code, relating to crimes.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 48922 of the Education Code is amended to read:

48922. When a petition is requested in juvenile court or a complaint filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code, the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

SEC. 2. Section 853.6 of the Penal Code is amended to read:

853.6. (a) In any case in which a person is arrested for an offense declared to be a misdemeanor and does not demand to be taken

before a magistrate, that person may, instead of being taken before a magistrate, be released according to the procedures set forth by this chapter. If the arresting officer or his or her superior determines that the person should be released, the officer or superior shall prepare in duplicate a written notice to appear in court, containing the name and address of the person, the offense charged, and the time and place where and when the person shall appear in court. If the person is not released prior to being booked and the officer in charge of the booking or his or her superior determines that the person should be released, the officer or superior shall prepare a written notice to appear in a court.

(b) Unless waived by the person, the time specified in the notice to appear must be at least 10 days after arrest if the duplicate notice is to be filed by the officer with the magistrate.

(c) The place specified in the notice shall be the court of the magistrate before whom the person would be taken if the requirement of taking an arrested person before a magistrate were complied with, or shall be an officer authorized by that court to receive a deposit of bail.

(d) The officer shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure release, shall give his or her written promise so to appear in court by signing the duplicate notice which shall be retained by the officer. Thereupon the arresting officer shall immediately release the person arrested from custody.

(e) The officer shall, as soon as practicable, file the duplicate notice, as follows:

(1) It shall be filed with the magistrate if the offense charged is an infraction.

(2) It shall be filed with the magistrate if the prosecuting attorney has previously directed the officer to do so.

(3) The duplicate notice and underlying police reports in support of the charge or charges shall be filed with the prosecuting attorney in cases other than those specified in paragraphs (1) and (2).

If the duplicate notice is filed with the prosecuting attorney, he or she, within his or her discretion, may initiate prosecution by filing the notice or a formal complaint with the magistrate specified therein within 25 days from the time of arrest. If the prosecution is not to be initiated, the prosecutor shall send notice to the person arrested at the address on the notice to appear. The failure by the prosecutor to file the notice or formal complaint within 25 days of the time of the arrest shall not bar further prosecution of the misdemeanor charged in the notice to appear; however, any further prosecution shall be preceded by a new and separate citation or an arrest warrant.

Upon the filing of the notice with the magistrate by the officer, or the filing of the notice or formal complaint by the prosecutor, the magistrate may fix the amount of bail which in his or her judgment, in accordance with the provisions of Section 1275 of the Penal Code, will be reasonable and sufficient for the appearance of the defendant

and shall indorse upon the notice a statement signed by him or her in the form set forth in Section 815a. The defendant may, prior to the date upon which he or she promised to appear in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant shall not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in his or her discretion order that no further proceedings shall be had in such case, unless the defendant has been charged with violation of Section 374b or 374e of this code or of Section 11357, 11360, or 13002 of the Health and Safety Code, or a violation punishable under Section 5008.7 of the Public Resources Code, and he or she has previously been convicted of a violation of that section or punishable under that section, except in cases where the magistrate finds that undue hardship will be imposed upon the defendant by requiring him or her to appear, the magistrate may declare the bail forfeited and order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the county treasury for distribution pursuant to Section 1463.

(f) No warrant shall issue on such charge for the arrest of a person who has given such a written promise to appear in court, unless and until he or she has violated that promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law.

(g) The officer shall indicate on the notice to appear whether he or she desires the arrested person to be booked as defined in subdivision 21 of Section 7. In such event, the magistrate shall, before the proceedings are finally concluded, order the defendant to be booked by the arresting agency.

(h) A peace officer may use the written notice to appear procedure set forth in this section for any misdemeanor offense in which the officer has arrested a person pursuant to Section 836 or in which he or she has taken custody of a person pursuant to Section 847.

(i) If the arrested person is not released pursuant to the provisions of this chapter prior to being booked by the arresting agency, then at the time of booking the arresting officer, the officer in charge of such booking or his or her superior officer, or any other person designated by a city or county for this purpose shall make an immediate investigation into the background of the person to determine whether he or she should be released pursuant to the provisions of this chapter. Such investigation shall include, but need not be limited to, the person's name, address, length of residence at that address, length of residence within this state, marital and family status, employment, length of that employment, prior arrest record, and such other facts relating to the person's arrest which would bear on the question of his or her release pursuant to the provisions of this chapter.

(j) Whenever any person is arrested by a peace officer for a misdemeanor, other than an offense described in subdivision (b) of Section 11357 or subdivision (c) of Section 11360 of the Health and Safety Code, and is not released with a written notice to appear in court pursuant to this chapter, the arresting officer shall indicate, on a form to be established by his or her employing law enforcement agency, which of the following was a reason for such nonrelease:

(1) The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.

(2) The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.

(3) The person was arrested for one or more of the offenses listed in Section 40302 of the Vehicle Code.

(4) There were one or more outstanding arrest warrants for the person.

(5) The person could not provide satisfactory evidence of personal identification.

(6) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by immediate release of the person arrested.

(7) There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.

(8) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.

(9) Any other reason, which shall be specifically stated on the form by the arresting officer.

The form shall be filed with the arresting agency as soon as practicable and shall be made available to any party having custody of the arrested person, subsequent to the arresting officer, and to any person authorized by law to release him or her for custody before trial.

SEC. 3. Section 653.1 is added to the Welfare and Institutions Code, to read:

653.1. Notwithstanding the provisions of Section 653, in the case of an affidavit alleging that the minor committed an offense described in Section 602, the probation officer shall cause the affidavit to be immediately taken to the prosecuting attorney if it appears to the probation officer that the minor has been referred to the probation officer for any violation of an offense listed in subdivision (b) of Section 707 and that offense was allegedly committed when the minor was 16 years of age or older. If the prosecuting attorney decides not to file a petition, he or she may return the affidavit to the probation officer for any other appropriate action.

SEC. 4. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any

juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the proceeding, his parents or guardian, the attorneys for such parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor.

(b) Notwithstanding subdivision (a), written notice of the filing of a petition in juvenile court, alleging that a minor of compulsory school age is a person using, selling, or possessing narcotics or a controlled substance, may be provided by the district attorney, within 48 hours, to the superintendent of the school district of attendance, pursuant to Section 48922 of the Education Code. The district attorney need not obtain a court order prior to providing this notice to the superintendent.

CHAPTER 1104

An act to add Section 4530.5 to, and to amend Section 2042 of, the Penal Code, and to amend Section 1768.7 of, and to repeal Section 1257 of, the Welfare and Institutions Code, relating to escapes.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 2042 of the Penal Code is amended to read:

2042. Every minor person confined in the Deuel Vocational Institute who escapes or attempts to escape therefrom is guilty of a crime and shall be imprisoned in a state prison, or in the county jail for not exceeding one year.

SEC. 2. Section 4530.5 is added to the Penal Code, to read:

4530.5. For the purposes of punishing escapes or attempts to escape under Section 4530, a person is deemed confined in a "state prison" if he is an adult prisoner confined in the Deuel Vocational Institution.

SEC. 3. Section 1257 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 1768.7 of the Welfare and Institutions Code is amended to read:

1768.7. (a) Any person committed to the authority who escapes or attempts to escape from the institution or facility in which he is confined, who escapes or attempts to escape while being conveyed to or from such institution or facility, who escapes or attempts to escape while outside or away from such institution or facility under

custody of Youth Authority officials, officers, or employees, or who, with intent to abscond from the custody of the Youth Authority, fails to return to such institution or facility at the prescribed time while outside or away from such institution or facility on furlough or temporary release, is guilty of a felony.

(b) Any offense set forth in subdivision (a) of this section which is accomplished by force or violence is punishable by imprisonment in the state prison for a term of two, four, or six years. Any offense set forth in subdivision (a) of this section which is accomplished without force or violence is punishable by imprisonment in the state prison for a term of 16 months, two or three years or in the county jail not exceeding one year.

CHAPTER 1105

An act to amend Section 707.2 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 15, 1982. Filed with Secretary of State September 16, 1982.]

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

SECTION 1. Section 707.2 of the Welfare and Institutions Code is amended to read:

707.2. Prior to sentence, the court of criminal jurisdiction may remand the minor to the custody of the Youth Authority for not to exceed 90 days for the purpose of evaluation and report concerning his amenability to training and treatment offered by the Youth Authority. No minor who was under the age of 18 years when he committed any criminal offense and who has been found not a fit and proper subject to be dealt with under the juvenile court law shall be sentenced to the state prison unless he has first been remanded to the custody of the Youth Authority for evaluation and report pursuant to this section.

The need to protect society, the nature and seriousness of the offense, the interests of justice, the suitability of the minor to the training and treatment offered by the Youth Authority, and the needs of the minor shall be the primary considerations in the court's determination of the appropriate disposition for the minor.

CHAPTER 1106

An act to add Chapter 2.5 (commencing with Section 17300) to Division 6 of the Financial Code, relating to escrow agents.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Chapter 2.5 (commencing with Section 17300) is added to Division 6 of the Financial Code, to read:

CHAPTER 2.5. GUARANTEE OF ESCROW OBLIGATIONS

Article 1. Definitions

17300. "Guaranty Corporation" means the Escrow Agents' Guaranty Corporation of California.

17301. "Member" means any person licensed under this division who is required by Section 17312 to be a member of Guaranty Corporation.

17302. "Trust obligation" means:

(a) All money and property deposited with a member in an escrow or joint control transaction.

(b) All money and property deposited with a member to be held in trust pursuant to a federal or state statute or requirements of a governmental agency.

17303. "Commissioner" means the Commissioner of Corporations.

Article 2. Purpose: Scope of Guarantee

17310. (a) It shall be the purpose of Guaranty Corporation to indemnify a member against loss of trust obligations as a result of embezzlement, theft, or mysterious disappearance, subject to the limitations set forth in this chapter.

(b) Guaranty Corporation shall not be liable for any general or punitive damages, whatsoever, of a member.

(c) The indemnification shall be provided by either:

(1) A guaranty fund established by Guaranty Corporation.

(2) A bond to be approved by the commissioner.

(3) A combination of both subdivisions (1) and (2).

17311. Within 180 days after the effective date of this chapter, persons licensed pursuant to the provisions of this division shall establish a corporation under the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) to operate under the name Escrow Agents' Guaranty Corporation of California. Guaranty

Corporation shall not commence operations, other than its organization and solicitation of members, unless the amount in the guaranty fund equals six hundred seventy-five thousand dollars ($675,000), and the fidelity bond required by Section 17314 has been purchased and is in effect. When Guaranty Corporation commences operations, its members in good standing shall not be subject to Section 17203.1.

17312. Each person licensed pursuant to the provisions of this division shall participate as a member in Guaranty Corporation in accordance with this chapter and rules to be established by the board of directors of Guaranty Corporation.

17313. The commissioner shall review and approve the articles of incorporation and bylaws of Guaranty Corporation before they are filed with the Secretary of State. The commissioner shall also review and approve Guaranty Corporation's plan for the solicitation of members prior to the implementation of the plan.

17314. Guaranty Corporation shall pay a member for loss of trust obligations sustained as a result of embezzlement, theft, or mysterious disappearance or because of checks which have not been paid by the drawee bank drawn by the escrow agent on its trust or escrow account resulting from embezzlement, theft, or mysterious disappearance by an officer, director, trustee, or employee of the escrow agent.

The liability of Guaranty Corporation to be paid from the guaranty fund shall be as follows:

(a) Up to one hundred thousand dollars ($100,000) per loss to a member during the first full year of operation of the Guaranty Corporation, for each loss discovered during this period.

(b) Up to one hundred fifty thousand dollars ($150,000) per loss to a member during the second full year of operation of the Guaranty Corporation, for each loss discovered during this period.

(c) Up to two hundred thousand dollars ($200,000) per loss to a member during the third full year of operation of the Guaranty Corporation, and thereafter.

Losses in excess of the amounts covered in subdivisions (a), (b), and (c), up to an amount equal to 1 percent of the total average trust obligations of all members as reported to the commissioner pursuant to Section 17348, shall be covered by a fidelity bond purchased by the Guaranty Corporation on behalf of its members. Guaranty Corporation shall furnish a good and sufficient bond indemnifying the member against loss of trust obligations as a result of embezzlement, theft, or mysterious disappearance in excess of the amounts covered in subdivisions (a), (b), and (c). The bond shall be filed with the commissioner for approval pursuant to Section 17203.1.

On April 15 of each year, the bond shall equal 1 percent of the total average trust obligations of all members as reported to the commissioner pursuant to Section 17348.

17315. The commissioner may establish rules which are reasonable and necessary to carry out the provisions of this chapter.

Article 3. Membership Fee and Assessments

17320. Guaranty Corporation shall establish and maintain a guaranty fund as follows:

(a) Upon organization and establishment of the Guaranty Corporation, each member shall pay to Guaranty Corporation a membership fee of two thousand two hundred fifty dollars ($2,250) for each member's licensed location. The membership fee shall be paid in three annual installments of seven hundred fifty dollars ($750) each on or before January 15 of each year. Each person licensed pursuant to this division who becomes a member subsequent to the organization and establishment of Guaranty Corporation shall also pay to Guaranty Corporation a membership fee of two thousand two hundred fifty dollars ($2,250) for each member's licensed location, which membership fee shall be paid in three annual installments as set forth above. Upon voluntary surrender of a member's license or branch licenses, and with the written consent of the commissioner, the membership fee paid to Guaranty Corporation applicable to the surrendered license shall be refunded, provided that no claims pursuant to Section 17330 have been filed by the member against the guaranty fund, the commissioner has not commenced an investigation against the member with respect to potential liability on the part of Guaranty Corporation, and two years and one day has passed since the surrender of the member's license or branch licenses. A refund of the membership fee upon voluntary surrender of the membership shall be subject to the same requirements as the voluntary surrender of the member's license.

(b) If by April 15 of the first full year after organization and establishment of Guaranty Corporation, the guaranty fund does not contain an amount (excluding any unpaid demand made pursuant to Section 17330) equal to one million three hundred fifty thousand dollars ($1,350,000) plus the premium amount for the bond required by Section 17314, then each member shall be assessed an amount equal to the ratio of the member's average liability for trust obligations as reflected in the most recent report required by Section 17348 to the amount deficient in the guaranty fund. The assessment shall be levied on each member no later than May 1 pursuant to Section 17310.

(c) If by April 15 of the second full year after organization and establishment of Guaranty Corporation, the guaranty fund does not contain an amount (excluding any unpaid demand made pursuant to Section 17330) equal to two million twenty-five thousand dollars ($2,025,000) plus the premium amount for the bond required by Section 17314, then each member shall be assessed the amount of deficiency as set forth in subdivision (b).

(d) If by April 15 of the third full year after organization and establishment of the Guaranty Corporation, the guaranty fund does

not contain an amount (excluding any unpaid demand made pursuant to Section 17330) equal to 1 percent of the members' average liability for trust obligations, then each member shall be assessed the amount of deficiency as set forth in subdivision (b).

(e) In the event the amount in the guaranty fund equals 2 percent or more of the total average trust obligations for all members as reflected in the most recent report required by Section 17348, Guaranty Corporation may remit to each member any amount in the guaranty fund in excess of 1½ percent of the total average trust obligations for all members. The amount which may be remitted to each member shall be an amount equal to the ratio of the member's most recent assessment to the total amount to be remitted. If a member has not paid any assessment or has not paid the full amount of any assessment, the amount of remittance shall first be applied to pay the member's unpaid assessment liability.

(f) The membership fee shall be considered a tangible asset of the member in all financial statements.

(g) After the third full year of operation of Guaranty Corporation, the amount in the guaranty fund shall at all times be equal to 1 percent of the total average trust obligations as reported to the commissioner pursuant to Section 17348. Guaranty Corporation shall immediately levy an assessment, as set forth in subdivision (b), on each member should the guaranty fund fall below the required amount.

17321. Guaranty Corporation shall send a written notice of assessment to each member assessed within 15 days after the levy of any assessment. Amounts assessed shall be paid to Guaranty Corporation by each member assessed not later than 90 days following written notice of assessment.

17322. A report of each levy of assessment shall be made to the commissioner within 10 days after the levy.

17323. In the event any member fails to pay an assessment when due, Guaranty Corporation shall report the default in writing to the commissioner within 24 hours of the default, and shall within 30 days after default bring an action in law or in equity to enforce payment. If Guaranty Corporation does not bring such an action within the time specified, the commissioner may bring an action in law or in equity to enforce such payment.

Article 4. General Provisions

17330. Any member who suffers a loss of trust obligations due to embezzlement, theft, or mysterious disappearance may file a claim with Guaranty Corporation for the amount of the loss.

17331. Guaranty Corporation shall not, in any one calendar year, be required to pay any claims that exceed in the aggregate the total in the fund after allowance for all amounts to be added to the member's account during the year by assessment as provided in this chapter. With the written consent of the commissioner, Guaranty

Corporation shall have the authority to borrow against future assessments to pay claims which exceed in the aggregate the total amount in the fund.

17332. When Guaranty Corporation pays an obligation on behalf of a member, Guaranty Corporation shall be subrogated to the rights, claims, and remedies of the member up to the amount paid by Guaranty Corporation on behalf of the member.

17333. The commissioner may forthwith take possession of the property and business of Guaranty Corporation and retain possession until Guaranty Corporation satisfies the commissioner that it will operate in conformity with this chapter whenever it appears to the commissioner that Guaranty Corporation has done any of the following:

(a) Violated its articles of incorporation or any law of this state.

(b) Invested its funds in violation of Section 17337.

(c) Not levied assessments as required by Sections 17320 and 17321.

(d) Has not brought and diligently prosecuted an action to enforce payment as required by Section 17323.

(e) Violated any section of this chapter.

(f) Neglected or refused to submit its books, papers, and affairs to the inspection of the commissioner.

During the time the commissioner has possession he shall perform the duties and carry out the obligations of Guaranty Corporation.

17334. Whenever the commissioner has taken possession of the property and business of Guaranty Corporation, Guaranty Corporation within 10 days after the taking, if it deems itself aggrieved thereby, may apply to the superior court in the county in which the head office of Guaranty Corporation is located to enjoin further proceedings. The court, after citing the commissioner to show cause why further proceedings should not be enjoined, and after a hearing and a determination of the facts upon the merits, may dismiss the application or enjoin the commissioner from further proceedings and direct the commissioner to surrender the property and business to Guaranty Corporation, or make a further order as may be just.

17335. 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. No bond need be given if the appeal is taken by the commissioner, but if the appeal is taken by Guaranty Corporation a bond shall be given as required by Sections 917.2 and 917.5 of the Code of Civil Procedure as a condition to any stay.

17336. (a) Guaranty Corporation shall have independent authority to investigate claims filed by members pursuant to Section 17330.

(b) Guaranty Corporation, with the written consent of the

commissioner, may conduct an examination or investigation of the business practices of a member's handling and processing of trust obligations.

(c) Guaranty Corporation may submit reports and make recommendations to a member on its findings as a result of an examination or investigation conducted pursuant to this section. These reports and recommendations shall not be public documents. A copy of all reports and recommendations shall be furnished to the commissioner by Guaranty Corporation. There shall be no liability on the part of, and no cause of action of any nature shall arise against, Guaranty Corporation or its members, directors, officers, employees, or agents or the commissioner or commissioner's authorized representatives for any statements made by them in any reports or recommendations made hereunder.

(d) With the written consent of a majority of its directors and the commissioner, Guaranty Corporation, in order to fulfill its obligations under this section, may appoint an independent certified public accountant or public accountant or hire or appoint a specialized committee or employees to conduct an examination or investigation authorized by this section. Any reports as a result thereof shall be furnished to the commissioner pursuant to the provisions of subdivision (c).

(e) For the purposes of conducting an examination or investigation, Guaranty Corporation or its appointee shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of the member.

(f) Costs and expenses for such examination or investigation shall be paid by Guaranty Corporation.

(g) Guaranty Corporation, any member of Guaranty Corporation, an agent of Guaranty Corporation or of its members, or any person who uses any information obtained under this section for any purpose not authorized herein is guilty of a misdemeanor.

17337. Guaranty Corporation may invest its funds only as provided by rules of the commissioner adopted with a view to preserving reasonable liquidity.

Upon request of the commissioner, Guaranty Corporation shall furnish an authorization for disclosure to the commissioner of financial records of funds pursuant to Section 7473 of the Government Code.

17338. Income from investments shall be recorded in an income account and be used to defray expenses of administration. Income from investments that exceeds an amount determined by the board of directors to be adequate to provide for current expenses may be credited to members' accounts. Each member's account shall receive credit ratably based on the account balance, for the amount of the excess. Income received by Guaranty Corporation, whether or not credited to members' accounts, shall be subject to a claim filed by a member made pursuant to Section 17330 except as to that portion reserved by the board of directors for expenses of administration

during the calendar year.

17339. Expenses of administration that exceed income from investments at the end of the year shall be charged to members' accounts. Each member's account shall be charged ratably based on the account balance for the amount of the excess.

17340. Guaranty Corporation, with the commissioner's written consent, may borrow funds when necessary to effectuate the provisions of this chapter

17341. The commissioner shall give prompt notice to Guaranty Corporation when the commissioner takes possession of the property and business of a member and shall give further prompt notice when the commissioner determines to liquidate the property and business of a member.

17342. Memberships issued by Guaranty Corporation shall be nontransferable and shall be exempt from the provisions of the Corporate Securities Law of 1968.

17343. No provision of the Insurance Code shall apply to Guaranty Corporation.

17344. The operation of Guaranty Corporation shall at all times be subject to the regulation of the commissioner and the commissioner's duly designated representatives. The commissioner and the commissioner's duly designated representatives may at any time investigate the affairs and examine the books, accounts, records, and files used by Guaranty Corporation. The commissioner and the commissioner's duly designated representatives shall have free access to the offices, books, accounts, papers, records, files, safes, and vaults of Guaranty Corporation.

17345. Any member aggrieved by any action or decision of Guaranty Corporation may appeal to the commissioner within 30 days from the action or decision.

The commissioner's decision on appeal shall be made within 60 days from the date of the appeal and shall be considered final.

17346. Guaranty Corporation shall not advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to its plan of operation without first obtaining the written approval of the commissioner.

17347. (a) The Secretary of State shall not file articles for the incorporation of Guaranty Corporation or an amendment to the articles unless the commissioner has issued a written approval of the articles or amendment.

(b) Guaranty Corporation shall not adopt any bylaws or amendments thereto without the written consent of the commissioner.

17348. In order to permit Guaranty Corporation to fulfill its obligation under this chapter, the commissioner shall furnish a list of all persons licensed under this division as of December 31 of each year and a copy of an escrow liability schedule filed with the

commissioner. Each member on or before March 15 shall furnish to the commissioner a schedule of its escrow liability as of the last day of each month for the preceding 12 months which ended December 31. The schedule shall be in the form and contain such information as the commissioner may require.

17349. If Guaranty Corporation is dissolved, subject to the approval of the commissioner, the net assets after settling all liabilities shall be distributed to the members on the basis of each member's licensed location.

17350. All cost and expenses incurred by the commissioner in the administration of this chapter shall be paid to the commissioner by Guaranty Corporation. The limitation on the total assessment for each year set forth in paragraph (1) of subdivision (e) of Section 17207 shall not apply to Guaranty Corporation's payment of cost and expenses incurred by the commissioner in the administration of this chapter. The commissioner may institute an action for the recovery of costs and expenses incurred in the administration of this chapter in any court of competent jurisdiction.

CHAPTER 1107

An act to amend Section 1242.7 of the Business and Professions Code, and to amend Section 1250.3 of the Health and Safety Code, relating to health services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982]

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

SECTION 1. Section 1242.7 of the Business and Professions Code is amended to read:

1242.7. (a) The State Department of Health Services shall, within six months after the effective date of this section, adopt rules and regulations prescribing minimum training standards for persons employed as hemodialysis technicians.

(b) Each dialysis clinic or dialysis unit within a licensed clinic or hospital, as defined respectively in Sections 1204 and 1250 of the Health and Safety Code, or any person operating or using dialysis equipment, other than a dialysis patient, shall have available to the department for review and approval, its training program and test for hemodialysis technicians. The test shall be administered by personnel performing the training at each dialysis clinic or dialysis unit and shall include written, oral and practical examinations designed to accurately test the proficiency of personnel in training on the type of dialyzer and equipment utilized at the dialysis clinic or dialysis unit. Six months after the adoption of rules and regulations

pursuant to subdivision (a), those dialysis clinics or dialysis units without an approved training program and test shall not be permitted to train personnel until they submit and receive approval for a training program and test by the department. A training program and test which is neither approved nor rejected by the department within 30 days after submission shall be deemed to be approved. In the case of persons employed as hemodialysis technicians on the effective date of this section, the test shall be taken and passed within one year of the effective date of this section or their employment shall be terminated. Any person employed as a hemodialysis technician on the effective date of this section may perform venipuncture and arterial puncture for the purpose of providing dialysis treatment for a patient as defined by regulations of the department.

(c) Personnel in training shall be classified as dialysis technician trainees and shall be immediately supervised by a licensed physician and surgeon or by a licensed registered nurse whenever the trainee is involved in direct patient care prior to passing the test. Persons employed as hemodialysis technicians on the effective date of the act amending this section during the second year of the 1981–82 Regular Session of the Legislature who have taken and been notified of their failure to successfully complete the approved test shall be reclassified as dialysis technician trainees. These persons shall be immediately supervised by a licensed physician and surgeon or by a licensed registered nurse whenever involved in direct patient care, and shall be required to successfully complete the approved test within six months after taking their first test or their employment shall be terminated.

(d) Each dialysis unit shall make available to the department the names of individuals employed by them as dialysis technicians and evidence that those persons have completed the approved training and successfully passed the approved test. Evidence of completion of the training program and passage of the prescribed test shall include the particular type of dialyzer and equipment upon which the individual was trained and tested and shall be a part of the individual's personnel records.

(e) The department may revoke or suspend the license of any dialysis clinic or unit or any licensed clinic or hospital for any violation of any provision of this section.

(f) For the purposes of this section, the following terms shall have the following meanings:

(1) "Hemodialysis technician" means an unlicensed health care provider who is employed by a hemodialysis clinic or unit for the purpose of participating in the direct treatment of patients undergoing hemodialysis. The treatment of patients includes performing venipuncture and arterial puncture for the purpose of providing dialysis treatment for a patient, as defined by regulations of the department.

(2) "Immediate supervision" means supervision of dialysis

treatment in the same room in which the dialysis treatment is being performed.

SEC. 2. Section 1250.3 of the Health and Safety Code is amended to read:

1250.3. (a) As defined in Section 1250, "health facility" includes the following type: "Chemical dependency recovery hospital" means a health facility which provides 24-hour inpatient care for persons who have a dependency on alcohol or other drugs, or both alcohol and other drugs. Such care shall include, but not be limited to, the following basic services: patient counseling, group therapy, physical conditioning, family therapy, outpatient services, and dietetic services. Each facility shall have a medical director who is a physician and surgeon licensed to practice in this state.

(b) The Legislature finds and declares that problems related to the inappropriate use of alcohol or other drugs, or both alcohol and other drugs are widespread and adversely affect the general welfare of the people of the State of California. It is the intent of the Legislature that the chemical dependency recovery hospital will provide an innovative inpatient treatment program for persons who have a dependency on alcohol or drugs, or both alcohol and other drugs. The Legislature further finds and declares that significant cost reductions can be achieved by chemical dependency recovery hospitals when both of the following conditions exist:

(1) Architectural requirements established by the state department encourage a flexible and open construction approach which significantly reduce capital construction costs.

(2) Programs are designed to provide comprehensive inpatient treatment yet permit substantial flexibility in the use of qualified personnel to meet the specific needs of the patients of the facility.

(c) Beds classified as chemical dependency recovery beds in a general acute care hospital or acute psychiatric hospital or a freestanding facility which is owned or leased by the general acute care hospital or the acute psychiatric hospital and which is located on the same premises or adjacent premises thereof, not to exceed a 15-mile radius within the same health facility planning area, as defined January 1, 1981, by the Office of Statewide Health Planning and Development and is under the administrative control of the general acute care hospital or the acute psychiatric hospital, shall be used exclusively for alcohol or other drug dependency treatment, or both alcohol and other drug dependency treatment. No general acute care hospital or acute psychiatric hospital or a freestanding facility, as defined in this subdivision, shall, without fulfilling the requirements of the licensing laws and health planning laws, convert beds classified as chemical dependency recovery beds to any other bed classification or provide new chemical dependency recovery beds by increasing bed capacity.

(d) Chemical dependency recovery services may be provided as a supplemental service in existing general acute care beds and acute psychiatric beds in a general acute care hospital or in existing acute

psychiatric beds in an acute psychiatric hospital or in existing beds in a freestanding facility, as defined in subdivision (c). When providing chemical dependency recovery services as a supplemental service, the general acute care hospital, acute psychiatric hospital, or freestanding facility, as defined in subdivision (c), shall provide the supplemental services in a distinct part of the hospital or freestanding facility, provided that the distinct part satisfies the criteria established by law and regulation for approval as a chemical dependency recovery supplemental service. A distinct part means an identifiable unit of a hospital or a freestanding facility, as defined in subdivision (c), accommodating beds, and related services, including, but not limited to, contiguous rooms, a wing, a floor or a building that is approved by the State Department of Health Services for a specific purpose. Notwithstanding any other provisions of this subdivision, an acute psychiatric hospital which provides all of the basic services specified in subdivison (b) of Section 1250 may, subject to the approval of the state department, have all of its licensed acute psychiatric beds approved for chemical dependency recovery services. Chemical dependency recovery services provided under this subdivision shall not require a separate license or reclassification of beds under the health planning laws.

(e) If the chemical dependency recovery hospital is not a supplemental service of a general acute care hospital, it shall have agreements with one or more general acute care hospitals providing for 24-hour emergency service and pharmacy, laboratory, and such other services as the state department may require.

(f) Any reference in any statute to Section 1250 shall be deemed and construed to also be a reference to this section.

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

Existing law prohibits a dialysis clinic or dialysis unit from training hemodialysis technicians until it submits and receives approval for a training program and test which is in conformance with regulations prescribing minimum training standards for persons employed as hemodialysis technicians required to be adopted by the State Department of Health Services by July 1, 1982. In addition, persons employed as hemodialysis technicians face the termination of their employment unless they take and pass, before January 1, 1983, a test which is in conformance with these same regulations. The State Department of Health Services has not yet adopted these regulations. In order to protect patients undergoing hemodialysis, hemodialysis technicians, dialysis clinics, and dialysis units from undue injury because of the failure of the State Department of Health Services to adopt these regulations, and to require the department to grant approval of acute psychiatric beds in acute psychiatric hospitals for chemical dependency recovery services at the earliest possible time, it is necessary that this act go into

immediate effect.

CHAPTER 1108

An act to amend, repeal, and add Section 65858 of the Government Code, relating to local agencies.

[Approved by Governor September 16, 1982 Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 65858 of the Government Code is amended to read:

65858. (a) Without following the procedures otherwise required preliminary to the adoption of a zoning ordinance, the legislative body, to protect the public safety, health and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses which may be in conflict with a contemplated zoning proposal which the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. Such urgency measure shall require a four-fifths vote of the legislative body for adoption. Such interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65856 and public hearing, the legislative body may extend such interim ordinance for 10 months and 15 days and subsequently extend such interim ordinance for one year. Any such extension shall also require a four-fifths vote for adoption. Not more than the two such extensions may be adopted.

(b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65856 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65856 and public hearing, the legislative body may by a four-fifths vote extend such interim ordinance for 22 months and 15 days.

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains a finding that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, rezonings, land use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in a threat to public health, safety, or welfare.

(d) Ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

(e) When any such interim ordinance has been adopted, every

subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first such ordinance or any extension thereof as herein provided.

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. Section 65858 is added to the Government Code, to read:

65858. Without following the procedures otherwise required preliminary to the adoption of a zoning ordinance, the legislative body, to protect the public safety, health and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses which may be in conflict with a contemplated zoning proposal which the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. Such urgency measure shall require a four-fifths vote of the legislative body for adoption. Such interim ordinance shall be of no further force and effect four months from its date of adoption. After notice pursuant to Section 65856 and public hearing, the legislative body may extend such interim ordinance for eight months and subsequently extend such interim ordinance for one year. Any such extension shall also require a four-fifths vote for adoption. Not more than the two such extensions may be adopted. Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65856 and public hearing, in which case it shall be of no further force and effect one year from its date of adoption. After notice pursuant to Section 65856 and public hearing, the legislative body may by a four-fifths vote extend such interim ordinance for one year. When any such interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first such ordinance or any extension thereof as herein provided.

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 1109

An act to add Section 19802.5 to the Government Code, relating to merit system requirements.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 19802.5 is added to the Government Code, to read:

19802.5. Notwithstanding the provisions of Sections 19801 and 19803, and after the State Personnel Board approves the memorandum of understanding standards, the State Personnel Board may waive administration of all or part of a local agency merit system where administration of merit system standards, including, but not limited to, certification, appointment and other transactions, layoff and reinstatement, position classifications, compensation standards, and disciplinary action are established pursuant to a legally binding memorandum of understanding negotiated between the local agency governing board and an employee organization recognized pursuant to applicable law representing employees engaged in federally supported programs under Section 19800. Upon request of the local agency governing board and the recognized employee organization, such waivers shall be granted on any or all standards following determination by the State Personnel Board that the provisions of the memorandum of understanding maintain merit system standards to the extent necessary to qualify for federal funds. All merit system standards waivers shall be subject to periodic audit, approval, or revocation by the State Personnel Board. Upon revocation of a waiver, the State Personnel Board may require any additional information as a condition of waiver reinstatement.

CHAPTER 1110

An act to add Section 4949 to the Business and Professions Code, relating to acupuncture, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982]

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

SECTION 1. Section 4949 is added to the Business and Professions Code, to read:

4949. The provisions of this chapter shall not prohibit an

acupuncturist from another state or country, who is not a certified acupuncturist in this state, who is the invited guest of a professional acupuncture association or scientific acupuncture foundation, or an acupuncture training program which is approved under Section 4939, solely from engaging in professional education through lectures, clinics, or demonstrations. The guest acupuncturist may engage in the practice of acupuncture in conjunction with these lectures, clinics, or demonstrations for a maximum of six months, but may not open an office or appoint a place to meet patients or receive calls from patients or otherwise engage in the practice of acupuncture.

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 master acupuncturists from other countries and states may lecture and demonstrate techniques in this state in the fall, it is necessary that this act take effect immediately.

CHAPTER 1111

An act to amend the heading of Title 9 (commencing with Section 261) of Part 1 and to amend Sections 264.1, 288a, and 289 of, and to add Sections 243.4 and 261.6 to, the Penal Code, relating to crimes.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 243.4 is added to the Penal Code, to read:

243.4. Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

As used in this section, "intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. Sexual battery does not include the crime of rape as defined in Sections 261 and 289. As used in this section, "touches" means physical contact with the skin of another person.

SEC. 2. The heading of Title 9 (commencing with Section 261) of Part 1 of the Penal Code is amended to read:

TITLE 9. OF CRIMES AGAINST THE PERSON INVOLVING SEXUAL ASSAULT, AND CRIMES AGAINST PUBLIC DECENCY AND GOOD MORALS

SEC. 3. Section 261.6 is added to the Penal Code, to read:

261.6. In prosecutions under Section 261, 286, 288a, or 289, in which consent is at issue, "consent" shall be defined to mean positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

SEC. 4. Section 264.1 of the Penal Code is amended to read:

264.1. The provisions of Section 264 notwithstanding, in any case in which the defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim, committed an act described in Section 261 or 289, either personally or by aiding and abetting the other person, that fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, the defendant shall suffer confinement in the state prison for five, seven, or nine years.

SEC. 5. Section 288a of the Penal Code is amended to read:

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

(b) (1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of oral copulation with another person who is under 16 years of age shall be guilty of a felony.

(c) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he, or when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of oral copulation when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for five, seven, or nine years.

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

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

(g) Any person who commits an act of oral copulation, and the victim is at the time incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

SEC. 6. Section 289 of the Penal Code is amended to read:

289. (a) Every person who causes the penetration, however slight, of the genital or anal openings of another person, by any foreign object, substance, instrument, or device when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Every person who causes the penetration, however slight, of the genital or anal openings of another person by any foreign object, substance, instrument, or device when the victim is at the time incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent, and this is known or reasonably should be known to the person committing the act for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(c) As used in this section, "foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.

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 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 1112

An act to add Article 2.4 (commencing with Section 283) to Chapter 2 of Division 1 of Part 1 of the Health and Safety Code, relating to health.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Article 2.4 (commencing with Section 283) is added to Chapter 2 of Division 1 of Part 1 of the Health and Safety Code, to read:

Article 2.4. Community-Based Perinatal System

283. The Legislature finds that a community-based system of comprehensive perinatal care, including prenatal care, delivery service, postpartum care, and neonatal and infant care are necessary services which have been demonstrated effective in preventing or reducing maternal, perinatal, and infant mortality and morbidity.

283.5. It is the intent of the Legislature in enacting this article to maintain, to the extent resources are available, a permanent statewide community-based comprehensive perinatal system to provide care and services to low-income pregnant women and their infants who are considered underserved in terms of comprehensive perinatal care.

It is also the intent of the Legislature that the statewide, community-based, comprehensive perinatal health care program be developed by the State Department of Health Services to conform with the guidelines set forth in this article, and be integrated and coordinated with the perinatal access program in Article 2.5 (commencing with Section 288).

It is further the intent of the Legislature that these guidelines allow each applicant the flexibility to design a system specific to the nature of the community and the needs of the clients.

It is further the intent of the Legislature that the Director of Health Services, in allocating funds available for programs which provide comprehensive perinatal care, follow the guidelines and principles developed in this article.

284. The following definitions shall govern the construction of this article:

(a) "Community-based comprehensive perinatal care" means a range of prenatal, delivery, postpartum, infant, and pediatric care services delivered in an urban community or neighborhood, rural area, city or county clinic, city or county health department, freestanding birth center, or other health care provider facility by health care practitioners trained in methods of preventing complications and problems during and after pregnancy, and in methods of educating pregnant women of these preventive measures, and who provide a continuous range of services. The health care practitioners shall, through a system of established linkages to other levels of care in the community, consult with, and, when appropriate, refer to, specialists.

(b) "Low income" means all persons of childbearing age eligible for Medi-Cal benefits under Chapter 7 (commencing with Section 14000) and all persons eligible for public social services for which federal reimbursement is available, including potential recipients. "Potential recipients" shall include the pregnant woman and her infant in a family where current social, economic and health conditions of the family indicate that the family would likely become a recipient of financial assistance within the next five years.

(c) "Prenatal care" means care received from conception until the completion of labor and delivery.

(d) "Perinatal care" means care received from the time of conception through the first year after birth.

(e) "State department" means the State Department of Health Services, unless otherwise designated.

285. The State Department of Health Services shall develop and maintain a statewide comprehensive community-based perinatal services program and enter into contracts, grants, or agreements with health care providers to deliver these services in a coordinated effort to the extent permitted under federal law and regulation. These contracts, grants, or agreements shall be made in medically underserved areas or areas with demonstrated need.

Nothing in this section shall be construed to prevent reallocation of resources or use of new moneys for the development of new community-based comprehensive perinatal systems in underserved areas or areas with demonstrated need, and supplementation of systems already in existence.

285.5. (a) The state department shall seek any federal waiver or waivers that may be necessary to maximize funds from the federal government including, but not limited to, funds provided under Title 19 of the Social Security Act to provide funds for a full range of preventive perinatal services.

(b) The state department shall, in preparing its budget for submission each year, coordinate all funding sources intended primarily for perinatal care made available through the Budget Act to maximize the delivery of perinatal care services and to avoid duplication of programs and funding.

(c) The state department shall develop and implement a uniform sliding fee schedule for women provided perinatal care through the perinatal care services program. The fee schedule shall be based on family size and income, but in no case shall the fee exceed the actual cost of the services provided. The department shall not implement any schedule developed pursuant to this section sooner than 30 days after the state 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.

All free clinics, as defined in paragraph (2) of subdivision (a) of Section 1204 shall be exempt from the provisions of this subdivision.

285.7. The state department shall monitor the delivery of services under contracts, grants, and agreements provided for in this article

through a uniform health data collection system which utilizes epidemiologic methodology. The department may collect data from providers receiving funds through this program as necessary to evaluate program effectiveness.

285.9. The goals of the community-based comprehensive perinatal health care system shall be:

(a) To decrease and maintain the decreased level of perinatal, maternal, and infant mortality and morbidity in the State of California.

(b) To support methods of providing comprehensive prenatal care which prevent prematurity and the incidence of low birth weight infants.

286. The program objectives of the community-based comprehensive perinatal health care system shall be the following:

(a) To ensure continuing availability and accessibility to early prenatal care within the areas presently served and to develop a community-based comprehensive perinatal system in other areas of the state that are medically underserved or have demonstrated need.

(b) To assure the appropriate level of maternal, newborn and pediatric care services necessary to provide the healthiest outcome for mother and infant.

(c) To ensure postpartum, family planning, and followup care through the first year of life, and referral to an ongoing primary health care provider.

(d) To include support and ancillary services such as nutrition, health education, public health nursing, and social work which have been demonstrated to decrease maternal, perinatal, and infant mortality and morbidity, as components of comprehensive perinatal care.

(e) To ensure that care shall be available regardless of the patient's financial situation.

(f) To ensure, to the extent possible, that the same quality of care shall be available to all pregnant women.

(g) To promote program flexibility by recognizing the needs within an area and providing for unique programs to meet those needs.

(h) To emphasize preventive health care as a major component of any perinatal program, and to support outreach programs directed at low-income pregnant women which will encourage early entry into, and appropriate utilization of, the perinatal health care system.

286.5. In processing and awarding contracts, grants, or agreements pursuant to this article, the State Department of Health Services shall evaluate the ability of applicants to meet, to the maximum extent possible, the following criteria:

(a) The applicant's prior experience in providing community-based, comprehensive perinatal care and services to low-income women and infants.

(b) The applicant's ability to provide comprehensive perinatal care, either directly or through subcontract. Those services

comprising comprehensive perinatal care include, but are not limited to, the following:

(1) Initial and ongoing physical assessment.

(2) Psychosocial assessments and counseling, and referral when appropriate.

(3) Nutrition assessments, counseling and referral to counseling on food supplement programs, vitamins, and breast-feeding.

(4) Health educational assessments, and intervention and referral, including childbirth preparation and parenting.

(5) Outreach and community education.

(6) Laboratory, radiology, and other specialized services as indicated.

(7) Delivery, postpartum followup, and pediatric care through the first year of life.

(c) The quality of care that is being, or has been provided to low-income women and infants by health care providers.

(d) Whether the area which is, or which will be, serviced by the applicant is medically underserved or has otherwise demonstrated the need for comprehensive, community-based perinatal services.

(e) The applicant's ability to use an appropriate multidisciplinary staff working as a team, in consultation with obstetricians, pediatricians, and family practitioners when appropriate, to provide a full range of comprehensive perinatal care services. Staffing patterns shall reflect, to the maximum extent feasible, at all levels, the cultural, linguistic, ethnic, and other social characteristics of the community served. This staff shall include at least one of those persons described in paragraphs (1) to (3), inclusive, of this subdivision, as follows, and may include, but not be limited to, a combination of those persons described in paragraphs (4) to (10), inclusive, of this subdivision, as follows:

(1) An obstetrician.

(2) A pediatrician.

(3) A family practice physician.

(4) Certified nurse midwives, public health nurses, nurse practitioners, or physicians' assistants.

(5) Nutritionists.

(6) Social workers.

(7) Health and childbirth educators.

(8) A family planning counselor.

(9) Community outreach peer workers.

(10) A translator.

287. (a) In developing a comprehensive system, health care providers funded under this article may perform the following activities to ensure that a full range of program components of a comprehensive, community-based health care system are available, accessible, and utilized by pregnant women and infants:

(1) Coordinate specific linkages with one another.

(2) Subcontract the services specified in this article.

(3) Provide additional services not specifically listed in this article.

These additional services shall include, but shall not be limited to the Women, Infants, and Children (WIC) food supplement program, services offered by local health departments, and public and private social welfare agencies. Nothing contained in this article shall be construed to prohibit a subcontractor from being reimbursed pursuant to a fee for service, capitation, or other payment mechanism.

(b) All services and educational materials shall be provided in the primary languages of the clients served, provided that there are at least 5 percent or 100 persons, whichever is less, of the total beneficiary population served annually by each facility, who share language other than English and who are limited-English speaking. "Limited-English speaking" means a person who uses a language other than English in order to communicate effectively.

(c) Health care providers applying for a contract, grant, or agreement under this article shall indicate the manner in which their service elements will be coordinated with existing community resources and services and with hospitals of all levels in the area to ensure each client receives the appropriate level or care at the appropriate time. The department may require written agreements between contractors and hospital or hospitals in the area regarding delivery services, and protocols for referral and transfer when special treatment services are required. The state department may, when requested by the grantee or contractor, assist in achieving coordination and written agreements pertaining to the delivery of these services.

287.5. The provisions contained in this article shall be subject to the normal Budget Act process and shall be operative to the extent funds are appropriated for this purpose.

CHAPTER 1113

An act to amend Sections 262, 314, and 647a of the Penal Code, relating to crimes.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 262 of the Penal Code is amended to read:

262. (a) Rape of a person who is the spouse of a perpetrator is an act of sexual intercourse accomplished against the will of the spouse by means of force or fear of immediate and unlawful bodily injury on the spouse or another, or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this subdivision

"threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(b) The provisions of Section 800 shall apply to this section; however, there shall be no arrest or prosecution under this section unless the violation of this section is reported to a peace officer having the power to arrest for a violation of this section or to the district attorney of the county in which the violation occurred, within 30 days after the day of the violation.

SEC. 2. Section 314 of the Penal Code is amended to read:

314. Every person who willfully and lewdly, either:

1. Exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or,

2. Procures, counsels, or assists any person so to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view, or the view of any number of persons, such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor.

Every person who violates subdivision 1 of this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year.

Upon the second and each subsequent conviction under subdivision 1 of this section, or upon a first conviction under subdivision 1 of this section after a previous conviction under Section 288, every person so convicted is guilty of a felony, and is punishable by imprisonment in state prison.

SEC. 3. Section 647a of the Penal Code is amended to read:

647a. Every person who annoys or molests any child under the age of 18 is a vagrant and is punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment in the county jail for not exceeding six months or by both such fine and imprisonment. Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year. Every person who violates this section is punishable upon the second and each subsequent conviction or upon the first conviction after a previous conviction under Section 288 by imprisonment in the state prison.

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 1114

An act to add Section 9602.5 to the Unemployment Insurance Code, relating to job training programs.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 9602.5 is added to the Unemployment Insurance Code, to read:

9602.5. The department shall establish, in conjunction with the Department of Social Services, the Department of Industrial Relations, the Department of Education, and the Chancellor's office of the California Community Colleges, a systemwide policy of actively promoting the training of women in nontraditional occupations. For purposes of this section, "nontraditional occupations" means any job classification with more than 70 percent male participants according to the statistics of the United States Department of Labor.

This section is not intended, and shall not be construed, to require any local agency to make any expenditures to further the policy set forth in this section.

CHAPTER 1115

An act to add Section 13823.5 to the Penal Code, relating to victims of rape, and making an appropriation therefor.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982]

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

SECTION 1. Section 13823.5 is added to the Penal Code, to read:

13823.5. The advisory committee established pursuant to Section 13836, shall establish standardized procedures for the collection of evidence from victims of sexual assaults and attempted sexual assaults who are treated in hospital emergency rooms. The procedure shall include, but not be limited to, all of the following:

(a) Specification of the materials to be provided to hospitals by local law enforcement agencies to collect evidence and to preserve each item of evidence separately.

(b) An explicit description of techniques required to properly preserve the evidence.

(c) Specific questions to be asked of the victim in order to provide guidance to the health professional as to the appropriate extent of the

physical examination, requiring noninterpretive responses addressed only to visible fact.

(d) Procedures for recording factual information obtained in terms of the evidence collected.

(e) Labelling and sealing of the evidence collected identifying the collector and attesting to the fact that the evidence was obtained from a specified victim.

(f) Procedures clearly establishing responsibility for the preservation and transmission of the evidence to law enforcement authorities.

(g) The length of time that the evidence shall be preserved by law enforcement authorities.

(h) Identification of emergency room personnel and other individuals who may be authorized to ask the victim specific questions that will provide guidance as to the extent of the physical examination.

The advisory committee shall also develop an informational guide containing general information on the appropriate examination and interview techniques for victims of sexual assaults.

In developing the standardized examination procedures and the informational guide the advisory committee shall seek the assistance and guidance of organizations assisting victims of sexual assualt; nurses, physicians, and administrators who are familiar with emergency room procedures; victims of sexual assault; and law enforcement officals.

The committee shall distribute copies of the standardized procedures and the informational guide to all emergency facilities in the state.

SEC. 2. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning for purposes of implementing this act.

CHAPTER 1116

An act to amend Sections 1197.5 and 1199 of, and to add Section 1199.5 to, the Labor Code, relating to wages.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 1197.5 of the Labor Code is amended to read:

1197.5. (a) No employer shall pay any individual in the employer's employ at wage rates less than the rates paid to employees of the opposite sex in the same establishment for equal work on jobs the performance of which requires equal skill, effort,

and responsibility, and which are performed under similar working conditions, except where the payment is made pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any bona fide factor other than sex.

(b) Any employer who violates subdivision (a) is liable to the employee affected in the amount of the wages, and interest thereon, of which the employee is deprived by reason of the violation, and in an additional equal amount as liquidated damages.

(c) The provisions of this section shall be administered and enforced by the Division of Labor Standards Enforcement. If the division finds that an employer has violated this section, it may supervise the payment of wages and interest found to be due and unpaid to employees under subdivision (a). Acceptance of payment in full made by an employer and approved by the division shall constitute a waiver on the part of the employee of the employee's cause of action under subdivision (g).

(d) Every employer shall maintain records of the wages and wage rates, job classifications, and other terms and conditions of employment of the persons employed by such employer. All such records shall be kept on file for a period of two years.

(e) Any employee may file a complaint with the division that the wages paid are less than the wages to which the employee is entitled under subdivision (a). The name of any employee who submits to the division a complaint regarding an alleged violation of subdivision (a) shall be kept confidential by the division until validity of the complaint is established by the division, or unless such confidentiality must be abridged by the division in order to investigate the complaint. The name of the complaining employee shall remain confidential if the complaint is withdrawn before such confidentiality is abridged by the division. The division shall take all proceedings necessary to enforce the payment of any sums found to be due and unpaid to such employees.

(f) The department or division may commence and prosecute, unless otherwise requested by the employee or affected group of employees, a civil action on behalf of the employee and on behalf of a similarly affected group of employees to recover unpaid wages and liquidated damages under subdivision (a), and in addition shall be entitled to recover costs of suit. The consent of any employee to the bringing of any such action shall constitute a waiver on the part of the employee of the employee's cause of action under subdivision (g) unless such action is dismissed without prejudice by the department or the division, except that such employee may intervene in such suit or may initiate independent action if such suit has not been determined within 180 days from the date of the filing of the complaint.

(g) Any employee receiving less than the wage to which the employee is entitled under this section may recover in a civil action the balance of such wages, including interest thereon, and an equal

amount as liquidated damages, together with the costs of the suit and reasonable attorney's fees, notwithstanding any agreement to work for a lesser wage.

(h) A civil action to recover wages under subdivision (a) may be commenced no later than two years after the cause of action occurs, except that a cause of action arising out of a willful violation may be commenced no later than three years after the cause of action occurs.

(i) If an employee recovers amounts due the employee under subdivision (b), and also files a complaint or brings an action under subdivision (d) of Section 206 of Title 29 of the United States Code which results in an additional recovery under federal law for the same violation, the employee shall return to the employer the amounts recovered under subdivision (b), or the amounts recovered under federal law, whichever is less.

SEC. 2. Section 1199 of the Labor Code is amended to read:

1199. Every employer or other person acting either individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and is punishable by a fine of not less than fifty dollars ($50) or by imprisonment for not less than 30 days, or by both, who does any of the following:

(a) Requires or causes any employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission.

(b) Pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission.

(c) Violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission.

SEC. 3. Section 1199.5 is added to the Labor Code, to read:

1199.5. Every employer or other person acting either individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and is 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, who willfully does any of the following:

(a) Pays or causes to be paid any employee a wage less than the rate paid to an employee of the opposite sex as required by Section 1197.5.

(b) Reduces the wages of any employee in order to comply with Section 1197.5.

No person shall be imprisoned pursuant to this section except for an offense committed after the conviction of the person for a prior offense pursuant to this section.

CHAPTER 1117

An act to add Chapter 2 (commencing with Section 200) to Part 1 of Division 1 of Title 1 of the Education Code, relating to discrimination.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Chapter 2 (commencing with Section 200) is added to Part 1 of Division 1 of Title 1 of the Education Code, to read:

CHAPTER 2. PROHIBITION OF DISCRIMINATION ON THE BASIS OF SEX

Article 1. Declaration of Purpose

200. It is the policy of the State of California to afford all persons, regardless of their sex, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor.

Article 2. Definitions

210. For purposes of this chapter, "educational institution" means a public or private preschool, elementary, or secondary school or institution; a public or private institution of vocational, professional, or postsecondary education; the governing board of a school district; the governing board of a community college district; the Regents of the University of California; the Trustees of the California State University, or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.

211. For purposes of this chapter, "governing board" means the governing board of a school district or the governing board of a community college district.

212. For purposes of this chapter, "sex" means the biological condition or quality of being a male or female human being.

213. For purposes of this chapter, "state financial assistance" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance to any educational institution for its own benefit or for the benefit of any students admitted to the educational institution.

State financial assistance shall include, but not be limited to, all of the following:

(a) Grants of state property, or any interest therein.

(b) Provision of the services of state personnel.

(c) Funds provided by contract, tax rebate, appropriation, allocation, or formula.

214. For purposes of this chapter, "state student financial aid" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance directly to any student admitted to an educational institution. State student financial aid shall include, but not be limited to, scholarships, loans, grants, or wages.

Article 3. Prohibition of Sex Discrimination

220. No person shall be subjected to discrimination on the basis of sex in any program or activity conducted by an educational institution which receives or benefits from state financial assistance or enrolls students who receive state student financial aid.

221. This article shall not apply to an educational institution which is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

222. This article shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine.

223. This article shall not apply to the membership practices of any of the following:

(a) A social fraternity or social sorority which is exempt from taxation under subdivision (a) of Section 501 of the federal Internal Revenue Code of 1954, whose active membership consists primarily of students in attendance at an institution of higher education.

(b) The Young Men's Christian Association, Young Women's Christian Association, girl scouts, boy scouts, camp fire girls, or voluntary youth service organizations which are exempt from taxation under subdivision (a) of Section 501 of the federal Internal Revenue Code of 1954, whose membership has traditionally been limited to persons of one sex, and principally to persons of less than 19 years of age.

224. This article shall not apply to any of the following:

(a) Any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference.

(b) Any program or activity of any secondary educational institution specifically for any of the following purposes:

(1) The promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference.

(2) The selection of students to attend any of those conferences.

225. This article shall not preclude father-son or mother-daughter activities at an educational institution, provided that if such activities

are offered for students of one sex, opportunities for reasonably comparable activities are offered for students of the other sex.

226. This article shall not apply to any scholarship or other financial assistance awarded by a postsecondary educational institution to any individual upon the basis of a combination of factors related to the individual's personal appearance, poise, and talent as an award in any pageant in which participation is limited exclusively to individuals of one sex, provided that the pageant complies with other nondiscrimination provisions of state and federal law.

227. In regard to admissions to educational institutions, this article shall apply only to institutions of vocational, professional, or postgraduate education, and to public postsecondary education institutions.

228. In regard to admissions to educational institutions, this article shall not apply to any public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.

229. Nothing contained in this article shall be construed to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in, or receiving the benefits of, any state supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, district, or other area. However, this section shall not be construed to prevent the consideration in any hearing or proceeding under this article of statistical evidence which tends to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any state-supported program or activity by the members of one sex.

230. For purposes of this chapter, discrimination on the basis of sex shall include, but not be limited to, the following practices:

(a) On the basis of sex, exclusion of a person or persons from participation in, denial of the benefits of, or subjection to discrimination in any academic, extracurricular, research, occupational training, or other program or activity.

(b) On the basis of sex, provision of different amounts or types of student financial aid, limitation of eligibility for student financial aid, or the application of different criteria to applicants for student financial aid or for participation in the provision of student financial aid by others. Nothing in this subdivision shall be construed to prohibit an educational institution from administering, or assisting in the administration of, scholarships, fellowships, or other forms of student financial aid, established pursuant to domestic or foreign wills, bequests, trusts, or similar legal instruments or by acts of a foreign government, which require that awards be made to members of a particular sex; provided, that the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of student financial aid does not discriminate on the basis of

sex.

(c) On the basis of sex, exclusion from participation in or denial of equivalent opportunity in athletic programs. For purposes of this subdivision, "equivalent" means equal or equal in effect.

(d) On the basis of sex, discrimination among persons, including, but not limited to, students and nonstudents, or academic and nonacademic personnel, in employment and the conditions thereof, except as it relates to a bona fide occupational qualification.

(e) On the basis of sex, the application of any rule concerning the actual or potential parental, family, or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions.

231. Nothing herein shall be construed to prohibit any educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes, so long as comparable facilities are provided.

232. The State Board of Education, the Board of Governors of the California Community Colleges, and the Trustees of the California State University shall issue rules, regulations, or orders to implement the provisions of this chapter.

The Regents of the University of California may issue rules, regulations, or orders to implement the provisions of this chapter.

Article 4. Instructional Materials

240. Governing boards of school districts shall adopt instructional materials in accordance with the provisions of Section 60040.

Article 5. Compliance

250. Prior to receipt of any state financial assistance or state student financial aid, an educational institution shall provide assurance to the agency administering the funds, in the manner required by the funding agency, that each program or activity conducted by the educational institution will be conducted in compliance with the provisions of this chapter and all other applicable provisions of state law prohibiting discrimination on the basis of sex. A single assurance, not more than one page in length and signed by an appropriate responsible official of the educational institution, may be provided for all the programs and activities conducted by an educational institution.

251. A school district or a community college district shall submit timely, complete, and accurate compliance reports to the State Department of Education or to the chancellor's office, as those entities may require.

All reports submitted pursuant to this section shall be made available by the educational institution for public inspection during regular business hours.

Article 6. Enforcement

260. The governing board of a school district shall have the responsibility for ensuring that district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability, and for monitoring compliance with any and all rules and regulations promulgated pursuant to Section 11138 of the Government Code.

261. The provisions of this chapter shall be implemented pursuant to existing regulations and procedures promulgated pursuant to Section 11138 of the Government Code, governing the filing and handling of written complaints of prohibited discrimination.

262. (a) The governing board of a community college district shall have the primary responsibility for ensuring that district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

(b) The Chancellor's office of the California Community Colleges shall have responsibility for all of the following:

(1) Reviewing original complaints of alleged unlawful discrimination filed pursuant to Section 59328 of Title 5 of the California Administrative Code.

(2) Reviewing reports of the nature and extent of the investigation of each complaint conducted by the district.

(3) Reviewing reports of any actions taken by the district to resolve each complaint.

(4) Monitoring the compliance of each district with any and all regulations promulgated pursuant to Section 11138 of the Government Code.

263. The California Postsecondary Education Commission shall report to the Legislature and Governor on the representation and utilization of ethnic minorities and women among academic, administrative, and other employees at the commmunity colleges, the California State University, and the University of California, pursuant to Sections 66903.1 and 66903.3.

264. No provision of this chapter shall be applicable to the University of California unless the Regents of the University of California, by resolution, make the provision applicable.

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. 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 1118

An act to amend Sections 14750 and 14771 of, and to add Sections 8246, 11346.6, and 14741.1 to, the Government Code, relating to state agencies.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 8246 is added to the Government Code, to read:

8246. (a) The commission is expressly authorized to inform the Legislature of its position on any legislative proposal pending before the Legislature and to urge the introduction of legislative proposals.

(b) The commission is expressly authorized to state its position and viewpoint on issues developed in the performance of its duties and responsibilities as specified in this chapter.

(c) This section is declaratory of existing law.

SEC. 1.5. Section 11346.6 is added to the Government Code, to read:

11346.6. The agency officer, as designated in Section 11346.5, shall make available to the public upon request copies of any public use forms, as defined by Section 14741.1, which an agency anticipates using as a result of any proposed adoption, amendment, or repeal of a regulation.

SEC. 2. Section 14741.1 is added to the Government Code, to read:

14741.1. As used in this chapter, "public use forms" means those forms used by the state to obtain or to solicit facts, opinions, or other information from the public or private citizens, partnerships, corporations, organizations, business trusts, or any nongovernmental entity or legal representative thereof.

SEC. 3. Section 14750 of the Government Code is amended to read:

14750. The head of each agency shall:

(a) Establish and maintain an active, continuing program for the economical and efficient management of the records and information collection practices of the agency. The program shall ensure that the information needed by the agency shall be obtained with a minimum burden upon individuals and businesses, especially small business enterprises and others required to furnish the information. Unnecessary duplication of efforts in obtaining information shall be eliminated as rapidly as practical. Information

collected by the agency shall, as far as is expedient, be collected and tabulated in a manner which maximizes the usefulness of the information to other state agencies and the public.

(b) Determine, with the concurrence of the director, records essential to the functioning of state government in the event of a major disaster.

(c) Comply with the rules, regulations, standards and procedures issued by the director.

SEC. 4. Section 14771 of the Government Code is amended to read:

14771. The director, through the forms management center, shall:

(a) Establish a State Forms Management Program for all state agencies, and provide assistance in establishing internal forms management capabilities.

(b) Study, develop, coordinate and initiate forms of interagency and common administrative usage, and establish basic state design and specification criteria to effect the standardization of state forms.

(c) Provide assistance to state agencies for economical forms design and forms art work composition and establish and supervise control procedures to prevent the undue creation and reproduction of state forms.

(d) Provide assistance, training, and instruction in forms management techniques to state agencies, forms management representatives, and departmental forms coordinators, and provide direct administrative and forms management assistance to new state organizations as they are created.

(e) Maintain a central cross index of state forms to facilitate the standardization of such forms, to eliminate redundant forms, and to provide a central source of information on the usage and availability of forms.

(f) Utilize appropriate procurement techniques to take advantage of competitive bidding, consolidated orders, and contract procurement of forms, and work directly with the State Printer toward more efficient, economical and timely procurement, receipt, storage, and distribution of state forms.

(g) Coordinate the forms management program with the existing state archives and records management program to insure timely disposition of outdated forms and related records.

(h) Conduct periodic evaluations of the effectiveness of the overall forms management program and the forms management practices of the individual state agencies, and maintain records which indicate net dollar savings which have been realized through centralized forms management.

(i) Delegate implementing action to state agencies where such delegation will result in the most timely and economical method of accomplishing the responsibilities set forth in this section.

(j) Develop and promulgate rules and standards to implement the overall purposes of this section.

(k) Create and maintain by January 1, 1984, a complete and comprehensive inventory of public use forms in current use by the state.

CHAPTER 1119

An act to amend Sections 266h and 266i of the Penal Code, relating to prostitution.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 266h of the Penal Code is amended to read:

266h. Any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, is guilty of pimping, a felony, and is punishable by imprisonment in the state prison for three, four, or six years, or, where the person engaged in prostitution is under 16 years of age, is punishable by imprisonment in the state prison for three, six, or eight years.

Except as provided in Section 1203.065 and notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person convicted under this section unless the person is required to serve a term of imprisonment in the state prison for three years as a condition of probation or suspension.

SEC. 2. Section 266i of the Penal Code is amended to read:

266i. Any person who: (a) procures another person for the purpose of prostitution; or (b) by promises, threats, violence, or by any device or scheme, causes, induces, persuades or encourages another person to become a prostitute; or (c) procures for another person a place as inmate in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed within this state; or (d) by promises, threats, violence or by any device or scheme, causes, induces, persuades or encourages an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as an inmate; or (e) by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures another person for the purpose of prostitution, or to enter any place in which prostitution is encouraged or allowed within this state, or to come into this state or leave this state for the purpose of prostitution; or (f) receives or

gives, or agrees to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution, or to come into this state or leave this state for the purpose of prostitution, is guilty of pandering, a felony, and is punishable by imprisonment in the state prison for three, four, or six years, or, where the other person is under 16 years of age, is punishable by imprisonment in the state prison for three, six, or eight years.

Except as provided in Section 1203.065 and notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person convicted under this section unless the person is required to serve a term of imprisonment in the state prison for three years as a condition of probation or suspension.

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 1120

An act to amend Section 1654 of the Civil Code, to add the heading, Part 1, immediately after the heading of Division 2 (commencing with Section 10100) of, to add Chapters 1 (commencing with Section 1100), 7 (commencing with Section 7100) and 9 (commencing with Section 9201) to Part 1 of Division 2 of, to add the heading, Part 2, immediately before the heading of Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of, to add Chapter 10 (commencing with Section 19100) to Part 2 of Division 2 of, and to repeal Sections 10228, 10229, and 10230 of, the Public Contract Code, and to repeal Section 94.5 of the Streets and Highways Code, relating to public contracts.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 1654 of the Civil Code is amended to read:

1654. In cases of uncertainty not removed by the preceding rules, the language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist.

SEC. 2. A heading is added immediately after the heading of Division 2 (commencing with Section 10100) of the Public Contract

Code, to read:

PART 1. ADMINISTRATIVE PROVISIONS

SEC. 3. Chapter 1 (commencing with Section 1100) is added to Part 1 of Division 2 of the Public Contract Code, to read:

CHAPTER 1. DEFINITIONS

1100. "Public entity," as used in this part, means the state, county, city, city and county, district, public authority, public agency, municipal corporation, or any other political subdivision or public corporation in the state.

1101. "Public works contract," as used in this part, means an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

SEC. 4. Chapter 7 (commencing with Section 7100) is added to Part 1 of Division 2 of the Public Contract Code, to read:

CHAPTER 7. CONTRACT CLAUSES

7100. Provisions in public works contracts with public entities which provide that acceptance of a payment otherwise due a contractor is a waiver of all claims against the public entity arising out of the work performed under the contract or which condition the right to payment upon submission of a release by the contractor of all claims against the public entity arising out of performance of the public work are against public policy and null and void. This section shall not prohibit a public entity from placing in a public works contract and enforcing a contract provision which provides that payment of undisputed contract amounts is contingent upon the contractor furnishing the public entity with a release of all claims against the public entity arising by virtue of the public works contract related to those amounts. Disputed contract claims in stated amounts may be specifically excluded by the contractor from the operation of the release.

7101. The state or any other public entity in any public works contract awarded to the lowest bidder, may provide for the payment of extra compensation to the contractor for the cost reduction changes in the plans and specifications for the project made pursuant to a proposal submitted by the contractor. The extra compensation to the contractor shall be 50 percent of the net savings in construction costs as determined by the public entity. The contractor shall not be required to perform the changes contained in an eligible change proposal submitted in compliance with the provisions of the contract unless the proposal has been accepted by the public entity.

SEC. 5. Chapter 9 (commencing with Section 9201) is added to Part 1 of Division 2 of the Public Contract Code, to read:

CHAPTER 9. CLAIMS AND DISPUTES

Article 3.

9201. A public entity shall have full authority to compromise or otherwise settle any claim relating to a contract at any time.

SEC. 6. A heading is added immediately before the heading of Chapter 1 (commencing with Section 10100) of Division 2 of the Public Contract Code, to read:

PART 2. CONTRACTING BY STATE AGENCIES

SEC. 7. Section 10228 of the Public Contract Code is repealed.

SEC. 8. Section 10229 of the Public Contract Code is repealed.

SEC. 9. Section 10230 of the Public Contract Code is repealed.

SEC. 10. Chapter 10 (commencing with Section 19100) is added to Part 2 of Division 2 of the Public Contract Code, to read:

CHAPTER 10. CLAIMS AND DISPUTES

19100. (a) Presentation of a claim pursuant to Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code is not required to commence a legal action or arbitration proceeding for money or damages on a contract with the state, but any action or proceeding shall be commenced not later than six months after either of the following:

(1) The contracting agency's final written decision under contract claim provisions.

(2) The accrual of the cause of action, if there are no contract claim provisions.

(b) Nothing contained in this section shall be construed as modifying or affecting the provisions of Article 8.1 (commencing with Section 14410) of Chapter 3 of Part 5 of Division 3 of Title 2 of the Government Code.

SEC. 11. Section 94.5 of the Streets and Highways Code is repealed.

CHAPTER 1121

An act to amend Sections 25118 and 25201 of, and to add Sections 25117.11, 25117.12, 25122.6, and 25123.3 to, the Health and Safety Code, relating to waste.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. The Legislature finds that persons producing hazardous waste can be encouraged to reduce their production of that waste by regulatory and financial incentives. The Legislature further finds and declares that the provisions of this act are intended to provide these needed incentives.

SEC. 2. Section 25117.11 is added to the Health and Safety Code, to read:

25117.11. "Offsite facility" means a hazardous waste facility that is not an onsite facility.

SEC. 3. Section 25117.12 is added to the Health and Safety Code, to read:

25117.12. "Onsite facility" means a hazardous waste facility at which a hazardous waste is produced and which is owned by, leased to, or under the control of, the producer of the waste.

SEC. 4. Section 25118 of the Health and Safety Code is amended to read:

25118. "Person" means an individual, trust, firm, joint stock company, corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes any city, county, district, and the state or any department or agency thereof, and the federal government or any department or agency thereof to the extent permitted by law.

SEC. 5. Section 25122.6 is added to the Health and Safety Code, to read:

25122.6. "Small quantity producer" means a person who produces less than 1,000 kilograms of hazardous waste in any month.

SEC. 6. Section 25123.3 is added to the Health and Safety Code, to read:

25123.3. "Storage facility" means a hazardous waste facility at which hazardous waste is contained for periods greater than 96 hours at an offsite facility or for periods greater than 90 days at an onsite facility.

SEC. 7. Section 25201 of the Health and Safety Code is amended to read:

25201. No operator of a treatment facility, waste transfer station, waste storage area, resource recovery facility, or waste disposal site shall accept, treat, store for more than 90 days at an onsite facility or 96 hours at an offsite facility, or dispose of a hazardous waste at the facility, station, area, or site, unless the operator holds a hazardous waste facilities permit from the department to use and operate the facility, station, area, or site.

SEC. 8. On or before April 1, 1983, the State Department of Health Services shall prepare and submit to the Legislature a report which includes, but is not limited to, a review of the current taxes, fees, and regulatory requirements imposed pursuant to Chapter 6.5 (commencing with Section 25100) and Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code, on

small quantity producers, as defined in Section 25122.6 of the Health and Safety Code, who generate hazardous wastes, and develop recommendations on means for the reduction of any unnecessary regulatory burdens imposed by these requirements on those small quantity producers. These recommendations shall assure that all requirements necessary for protection of public health and the environment are met.

SEC. 9. The State Department of Health Services shall use existing financial resources to fund all programs authorized by this act.

SEC. 10. 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. 11. 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 1122

An act to amend Section 211.3 of the Health and Safety Code, relating to health.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 211.3 of the Health and Safety Code is amended to read:

211.3. (a) The director may establish a system for the collection of information concerning the incidence of cancer. The system may cover all or any demographic part of the state depending on funding or other appropriate considerations or both the funding and other considerations, including an assessment of the need to obtain the information and the ability of the department to utilize the information for the purposes of this section.

(b) Upon the request of any county, the director shall designate cancer as a disease required to be reported in that county if the director determines that the cancer data to be compiled, and the format thereof, will be compatible for use in conjunction with cancer data compiled and used by the state department. All cancers diagnosed or treated in the county shall thereafter be reported to the

representative of the state department authorized to compile the cancer data or any individual, agency, or organization cooperating with such representative.

(c) All information reported pursuant to this section shall be confidential, as provided in Section 211.5, and shall be used for the purpose of determining the sources of malignant neoplasms and evaluating measures designed to eliminate, alleviate, or ameliorate their effect.

(d) The director shall adopt regulations for implementation of this section.

(e) For the purposes of this section, "cancer" means all malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma, Hodgkins disease, and leukemia, but excluding basal cell and squamous cell carcinoma of the skin.

(f) It is the intent of the Legislature that the department, in establishing a system pursuant to this section, maximize the use of available federal funds.

CHAPTER 1123

An act relating to agriculture.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982]

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

SECTION 1. Agriculture is the number one industry in California and is continuing to grow in importance to the state, nation, and the world. The current infestation of the Mediterranean fruit fly may require that up to 200 California crops be fumigated prior to shipment. In addition, many California crops currently exported to foreign markets must be fumigated.

The most universally accepted alternative to currently registered chemical fumigants is Picowave processing or food irradiation. Safety studies on this subject have been conducted over the last 30 years.

In November 1980 the Joint Expert Committee of the Food and Agricultural Organization of the United Nations (FAO), the International Atomic Energy Agency (IAEA) and the World Health Organization (WHO) approved the irradiation of food at doses up to 1 megarad.

Further study of dosimetry and efficacy is needed before the full potential of the process can be realized.

The Legislature finds and declares that because of its potential ability to replace chemical fumigation of many of California's crops and because, in addition to disinfestation, Picowave processing can be used to extend shelf life and to sterilize foods, the commercial use of Picowave processing is consistent with the public interest.

The Legislature also finds and declares that dosimetry and efficacy studies will expedite full utilization of Picowave processing.

SEC. 2. The Department of Food and Agriculture shall engage in dosimetry and efficacy studies of Picowave processing in conjunction with the University of California, the State Department of Health Services, the Department of Industrial Relations, the United States Department of Agriculture, the United States Food and Drug Administration, and the National Bureau of Standards. These agencies are to be provided with the research criteria adopted for the studies and are to monitor the research studies in order to assure that anticipated regulatory approval of Picowave processing will be forthcoming without unnecessary delay.

CHAPTER 1124

An act to amend Sections 1502, 1530.5, and 1533 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 16, 1982 Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons, and includes the following:

(1) "Residential facility" which means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Residential care facility for the elderly" which means a group housing arrangement chosen voluntarily by residents who are over 62 years of age and who are provided varying levels of supportive services or care, as agreed upon at the time of admission, based upon their varying needs.

(3) "Day care center" which means any facility which provides nonmedical care to persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(4) "Homefinding agency" which means any individual or organization engaged in finding homes or other places for placement

of persons of any age for temporary or permanent care or adoption.

(5) "Foster family home" which means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who are mentally disordered, developmentally disabled, or physically handicapped and who require special care and supervision as a result of their disabilities.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 2. Section 1530.5 of the Health and Safety Code is amended to read:

1530.5. (a) The state department, in establishing regulations, including provisions for periodic inspections, under this chapter for foster family homes providing 24-hour care for six or fewer foster children, shall consider such homes as private residences, and shall establish regulations for such foster family homes as an entirely separate regulation package from regulations for all other community care facilities. Such foster family homes shall not be subject to ratings or civil penalties pursuant to Section 1534 or 1535. The department, in adopting and amending regulations for such foster family homes, shall consult with foster parent organizations in order to ensure compliance with the requirement of this section.

(b) This section shall not apply to small family homes as defined in Section 1502.

SEC. 3. Section 1533 of the Health and Safety Code is amended to read:

1533. Except as otherwise provided in this section, any duly authorized officer, employee, or agent of the state department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

Foster family homes which are considered private residences for the purposes of Section 1530.5 shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint.

CHAPTER 1125

An act to amend Section 89507 of the Education Code, to add Article 4.5 (commencing with Section 19849.10) to Chapter 2 of Part 2.6 of Division 5 of Title 2 of, and to amend Sections 19850.1, 19850.3, 19853, 19858.1, and 19859.3 of, the Government Code, to add Section 10203.2 to the Insurance Code, and to amend Section 245 of Chapter 327 of the Statutes of 1982, relating to state employment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 89507 of the Education Code is amended to read:

89507. (a) The trustees, subject to such conditions as they may impose, may establish programs of insurance with respect to any class of their employees they may designate or with respect to all such employees, with any insurer or insurers, insurance broker or brokers, or insurance agent or agents, they may select, provided that all applicable provisions of the Insurance Code relating to any such insurance, or to the qualifications of the insurer, broker, or agent, are satisfied. The premiums of the programs of insurance shall be borne by the employees participating therein.

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

SEC. 2. Article 4.5 (commencing with Section 19849.10) is added to Chapter 2 of Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

Article 4.5. Management Compensation Incentives

19849.10. It is the purpose of this article to provide for management compensation incentives to promote increased productivity and efficiency in the management of state services, and to enable the state to attract and retain highly qualified managerial employees by providing management compensation incentives similar to those commonly provided in public employment and private industry.

19849.11. (a) The Department of Personnel Administration, subject to such conditions as it may establish, subject to existing

statutes governing health benefits and group term life insurance offered through the Public Employees' Retirement System, and subject to all other applicable provisions of state law, may enter into contracts for the purchase of employee benefits with respect to managerial and confidential employees as defined by subdivisions (e) and (f) of Section 3513, and employees excluded from the definition of state employee in subdivision (c) of Section 3513. Benefits shall include, but not be limited to, group life insurance, group disability insurance, group automobile liability and physical damage insurance, and homeowners' and renters' insurance.

19849.12. (a) The state may contribute all, part, or none of the cost of benefits purchased pursuant to this article. The remainder of the costs, if any, shall be paid by employee contributions.

(b) No contract for employee benefits which requires full or partial funding by the state shall be entered into pursuant to this article until funding is appropriated by the Legislature.

(c) The Legislature shall make necessary adjustments in the annual Budget Act to increase or decrease the state's contribution towards the cost of employee benefits purchased pursuant to this article.

SEC. 3. Section 19850.1 of the Government Code is amended to read:

19850.1. (a) State employees shall be responsible for the purchase of uniforms required as a condition of employment. The state shall provide for an allowance not to exceed two hundred fifty dollars ($250) per year to state employees for the replacement of uniforms.

When state employees are not required to wear uniforms on a full-time basis, the state allowance shall not exceed one hundred fifty dollars ($150) per year.

(b) If the provisions of 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 the 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) Notwithstanding the provisions of subdivision (a), the state shall provide any 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, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, an allowance not to exceed three hundred fifty dollars ($350) per year.

When employees described in this subdivision are not required to wear uniforms on a full-time basis, the state allowance shall not exceed two hundred fifty dollars ($250) per year.

SEC. 4. Section 19850.3 of the Government code is amended to

read:

19850.3. To implement the provisions of Sections 19850.1 and 19850.2, the department shall:

(a) Establish a procedure to determine what articles are to be included in calculating the amount of the uniform allowance.

(b) Determine the average annual replacement cost for each type of uniform based on required standards and taking into consideration normal uniform life. The allowance for employees provided by subdivision (a) of Section 19850.1 shall be the average annual replacement cost or two hundred fifty dollars ($250), whichever is less. The allowance for employees provided by subdivision (c) of Section 19850.3 shall be the average annual replacement cost or three hundred fifty dollars ($350), whichever is less.

(c) Annually review uniform allowances and adjust them when necessary.

(d) Determine procedure for and frequency of payment.

(e) Determine when new employees become eligible.

(f) Determine the need for changes in uniforms based on requests from appointing powers.

(g) Determine what degree of need for identification is necessary to support a uniform requirement.

(h) Establish procedures and make determinations as required.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, 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 the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 5. Section 19853 of the Government Code, as amended by Chapter 327 of the Statutes of 1982, 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 the 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 (c) of Section 3513, or is a supervisory employee, as defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, 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, 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, an employee shall be entitled to holiday credit. The holiday credit shall be accrued on the actual date of the holiday and shall be used within the same fiscal year.

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

(5) Employees who are required to work on a holiday shall be entitled to pay or compensating time off for this work in accordance with their classification's assigned work week group.

SEC. 6. Section 19858.1 of the Government Code, as amended by Chapter 327 of the Statutes of 1982, 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	1 5/12 days per month
181 months to 24 years	1 7/12 days per month
289 months and over	1⅔ days per month

The computation of credit for the month of January, 1964, and each month thereafter shall be based upon the schedule 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 the 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, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, 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 July 1982, 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. 7. Section 19859.3 of the Government Code, as added by Chapter 327 of the Statutes of 1982, is amended 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, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, shall be granted bereavement leave with pay for the death of a person related by blood, adoption, or marriage, or any person residing in the immediate household of 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. 8. Section 245 of Chapter 327 of the Statutes of 1982 is amended to read:

Sec. 245. The provisions of the following memoranda of understanding prepared pursuant to Sections 3517.5 and 3572 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 Sections 3517.6 and 3572 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 7—Coalition of Associations and Unions of State Employees, dated June 29, 1982.

(h) Unit 8—California Department of Forestry Employees' Association, dated June 22, 1982.

(i) Unit 9—Professional Engineers in California Government, dated June 22, 1982.

(j) Unit 10—California State Employees' Association, dated June 23, 1982.

(k) Unit 11—California State Employees' Association, dated June 23, 1982.

(*l*) Unit 12—California State Employees' Association, dated June 23, 1982.

(m) Unit 13—International Union of Operating Engineers, dated June 22, 1982.

(n) Unit 14—California State Employees' Association, dated June 23, 1982.

(o) Unit 15—California State Employees' Association, dated June 23, 1982.

(p) Unit 16—Union of American Physicians and Dentists, dated

June 24, 1982.

(q) Unit 17—California State Employees' Association, dated June 23, 1982.

(r) Unit 18—Communications Workers of America, dated June 24, 1982.

(s) Unit 19—American Federation of State, County, and Municipal Employees, dated June 23, 1982.

(t) Unit 20—California State Employees' Association, dated June 23, 1982.

(u) Unit 1—California State University, Physicians, dated June 30, 1982.

(v) Unit 5—California State University, Operations Support, dated June 24, 1982.

(w) Unit 7—California State University, Clerical/Administrative Support Services, dated June 24, 1982.

(x) Unit 8—California State University, Public Safety Officers/Investigators, dated June 25, 1982.

SEC. 9. Section 10203.2 is added to the Insurance Code, to read:

10203.2. Life insurance conforming to all the following conditions is another form of group life insurance:

(a) Written under a policy covering, when issued, not less than 25 employees in eligible classes or positions as designated by the Department of Personnel Administration pursuant to Section 19849.11 of the Government Code.

(b) Written under a policy issued to the State of California through the Department of Personnel Administration or its designee pursuant to Sections 19849.10 to 19849.12, inclusive, of the Government Code.

(c) The premium on the policy is to be paid by the employees alone, by the state alone, or in part by the state with the remainder to be paid by the employees.

(d) Insuring only managerial and confidential employees as defined by subdivisions (e) and (f) of Section 3513 of the Government Code, and employees excluded from the definition of state employees in subdivision (c) of Section 3513 of the Government Code.

(e) Insuring for amounts of insurance based upon some plan which will preclude individual selection.

(f) Insuring for the benefit of persons other than the Department of Personnel Administration or its designee.

(g) Written under a policy insuring, when issued, not less than 75 percent of all employees eligible for insurance under the policy, or 75 percent of the employees of any class or position thereof reasonably determined by conditions pertaining to employment or of any established unit thereof not formed for the purpose of procuring insurance. If a group policy is intended to insure several classes, positions, or units, it may be issued as respects the classes, positions, or units of which 75 percent are covered and extended to those other units, classes, or positions of which 75 percent express the desire to be covered. In this case, when the employees apply and pay for

additional amounts of insurance, a smaller percentage of employees may be insured for the additional amounts of insurance. If any employee fails to become insured under an existing policy when he or she becomes eligible and later wishes to become insured thereunder, the insurer may require satisfactory evidence of insurability before insurance is granted on the employee.

SEC. 10. The State Department of Personnel Administration shall within 30 days after the effective date of this act adopt emergency regulations to implement employee benefits for those state officers and employees excluded from, or not otherwise subject to, collective bargaining, or employees subject to collective bargaining in units not yet certified, or employees in units that are certified but are not bargaining for a 1982–83 memorandum of understanding as of the effective date of this act. The benefits provided shall be consistent with the benefits provided to employees pursuant to memoranda of understanding approved pursuant to Section 245 of Chapter 327 of the Statutes of 1982, as amended at the 1981–82 Regular Session, and shall be provided for the period commencing July 1, 1982.

Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the regulations adopted by the State Department of Personnel Administration pursuant to this section shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall not remain in effect more than 180 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.

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:

In order for the provisions of this act to become operative during the 1982–83 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 1126

An act to amend Section 17800.2 of, and to add Section 2076 to, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 2076 is added to the Business and Professions Code, to read:

2076. Notwithstanding any other provision of law, a physician who holds a current and valid license or certificate in any state or

country who is serving as a physician for any team participating in "The Games of the XXIIIrd Olympiad" in California may engage in the practice of medicine and is exempted from licensure provided that the practice is limited exclusively to the care and treatment of Olympic team members. Any members of an Olympic team requiring care in an acute care hospital which is outside the jurisdictional confines of the Olympics shall be referred by the Olympic team physician to a California licensed physician. Except to the extent authorized by this section, the Olympic team physician shall not engage in the practice of medicine unless he or she has been issued a California Physicians and Surgeons certificate.

Each physician designated as an Olympic team physician not holding a current and valid California license shall submit to the Division of Licensing evidence of licensure or certification from a state in the United States or from a foreign country. The designated physician shall also submit a current curriculum vitae.

The Division of Licensing, after review of the submitted documents, may provide the designated physician with a certificate to practice medicine within the foregoing limitations for the period July 14 to August 15, 1984.

SEC. 2. Section 17800.2 of the Business and Professions Code is amended to read:

17800.2. For the purposes of this chapter, the practice of marriage, family and child counseling shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships between spouses or members of a family are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. Such practice includes premarriage counseling.

The application of marriage, family and child counseling principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, and the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships within a marriage and family.

A marriage, family and child counselor may use hypnosis in the course of performing marriage, family and child counseling provided that he or she can demonstrate experience in the clinical use of hypnosis which satisfies the criteria established by the board. The criteria shall include evidence of (a) coursework in hypnosis from qualified instructors and (b) experience in a clinical setting using hypnosis under the supervision of a physician, a dentist, a licensed psychologist, or a licensed marriage, family and child counselor who has held a certificate in hypnosis issued by the board for at least six months.

CHAPTER 1127

An act to amend Sections 1785.1, 1785.3, 1785.11, 1785.13, 1785.20, 1786, 1786.2, 1786.12, 1786.16, 1786.18, and 1786.40 of the Civil Code, relating to consumers.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 1785.1 of the Civil Code is amended to read:

1785.1. The Legislature finds and declares as follows:

(a) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, and general reputation of consumers.

(b) Consumer credit reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

(c) There is a need to insure that consumer credit reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

(d) It is the purpose of this title to require that consumer credit reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, hiring of a dwelling unit, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this title.

(e) The Legislature hereby intends to regulate consumer credit reporting agencies pursuant to this title in a manner which will best protect the interests of the people of the State of California.

(f) The extension of credit is a privilege and not a right. Nothing in this title shall preclude a creditor from denying credit to any applicant providing such denial is based on factors not inconsistent with present law.

(g) Any clauses in contracts which prohibit any action required by this title are not in the public interest and shall be considered unenforceable. This shall not invalidate the other terms of such a contract.

SEC. 2. Section 1785.3 of the Civil Code is amended to read:

1785.3. The following terms as used in this title have the meaning expressed in this section:

(a) The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(b) The term "consumer" means a natural individual.

(c) The term "consumer credit report" means any written, oral, or other communication of any information by a consumer credit

reporting agency bearing on a consumer's credit worthiness, credit standing, or credit capacity, which is used or is expected to be used, or collected in whole or in part, for the purpose of serving as a factor in establishing the consumer's eligibility for: (1) credit to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) hiring of a dwelling unit, as defined in subdivision (c) of Section 1940, or (4) other purposes authorized in Section 1785.11.

The term does not include; (1) any report containing information solely as to transactions or experiences between the consumer and the person making the report, or (2) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device, or (3) any report by a person conveying a decision whether to make a specific extension of credit directly or indirectly to a consumer in response to a request by a third party, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under Section 1785.20, or (4) any report containing information solely on a consumer's character, general reputation, personal characteristics, or mode of living which is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on, or others with whom he is acquainted or who may have knowledge concerning any such items of information.

(d) The term "consumer credit reporting agency" means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties, but does not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes.

(e) The term "file" when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer credit reporting agency regardless of how the information is stored.

(f) The term "employment purposes", when used in connection with a consumer credit report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

(g) "Item of information" means any of one or more informative entries in a credit report which causes a creditor to deny credit to an applicant or increase the cost of credit to an applicant.

SEC. 3. Section 1785.11 of the Civil Code is amended to read:

1785.11. A consumer credit reporting agency shall only furnish a consumer credit report under the following circumstances:

(a) In response to the order of a court having jurisdiction to issue such an order.

(b) In compliance with a lawful subpoena issued by a court of

competent jurisdiction.

(c) In accordance with the written instructions of the consumer to whom it relates.

(d) To a person which it has reason to believe:

(1) Intends to use the information in connection with a credit transaction, or entering or enforcing an order of a court of competent jurisdiction for support, involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

(2) Intends to use the information for employment purposes; or

(3) Intends to use the information in connection with the underwriting of insurance involving the consumer, the rate for such insurance, or for insurance claims settlements; or

(4) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider the applicant's financial responsibility or status; or

(5) Intends to use the information in connection with the hiring of a dwelling unit, as defined in subdivision (c) of Section 1940; or

(6) Otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

SEC. 4. Section 1785.13 of the Civil Code is amended to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 14 years.

(2) Suits from the date of filing and satisfied judgments which from the date of entry antedate the report by more than seven years.

(3) Unsatisfied judgments which, from the date of entry, antedate the report by more than 10 years.

(4) Unlawful detainer actions where the person against whom the action was filed was adjudged the prevailing party.

(5) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(6) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(7) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. Such items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(8) Any other adverse information which antedates the report by more than seven years.

(b) The provisions of subdivision (a) are not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(4) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

SEC. 5. Section 1785.20 of the Civil Code is amended to read:

1785.20. (a) Whenever credit or insurance for personal, family, or household purposes, employment, or the hiring of a dwelling unit involving a consumer is denied or the charge for such credit, insurance, or the hiring of a dwelling unit is increased either wholly or partly because of information contained in a consumer credit report from a consumer credit reporting agency, the user of the consumer credit report shall so advise the consumer against whom such adverse action has been taken and supply the name and address or addresses of the consumer credit reporting agency making the report.

(b) Whenever credit or insurance for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or in part because of information obtained from a person other than a consumer credit reporting agency bearing upon consumer's credit worthiness or credit standing, the user of such information shall, within a reasonable period of time, and upon the consumer's written request for the reasons for such adverse action received within 60 days after learning of such adverse action, disclose the nature and substance of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his or her right to make such written request at the time such adverse action is communicated to the consumer.

(c) No person shall be held liable for any violation of this section if he or she shows by a preponderance of the evidence that at the time of the alleged violation he or she maintained reasonable procedures to assure compliance with the provisions of subdivisions (a) and (b) of this section.

(d) Nothing in this chapter shall excuse compliance with the requirements of Section 1787.2.

SEC. 6. Section 1786 of the Civil Code is amended to read:

1786. The Legislature finds and declares as follows:

(a) Investigative consumer reporting agencies have assumed a vital role in assembling and evaluating information on consumers for employment and insurance purposes, and for purposes relating to the hiring of dwelling units.

(b) There is a need to insure that investigative consumer

reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

(c) It is the purpose of this title to require that investigative consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for employment, insurance information, and information relating to the hiring of dwelling units in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this title.

(d) The Legislature hereby intends to regulate investigative consumer reporting agencies pursuant to this title in a manner which will best protect the interests of the people of the State of California.

SEC. 7. Section 1786.2 of the Civil Code is amended to read:

1786.2. The following terms as used in this title have the meaning expressed in this section:

(a) The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity. The term "person" as used in this title shall not be construed to require duplicative reporting by any individual, corporation, trust, estate, cooperative, association, government, or governmental subdivision or agency, or other entity involved in the same transaction.

(b) The term "consumer" means a natural individual who has made application to a person for employment purposes, for insurance for personal, family, or household purposes, or the hiring of a dwelling unit, as defined in subdivision (c) of Section 1940.

(c) The term "investigative consumer report" means a consumer report in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on, or others with whom he or she is acquainted or who may have knowledge concerning any such items of information. The term does not include a consumer report or other compilation of information which is limited to specific factual information relating to a consumer's credit record or manner of obtaining credit obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a potential or existing creditor of the consumer or from the consumer.

(d) The term "investigative consumer reporting agency" means any person who, for monetary fees or dues, regularly engages in whole or in part in the practice of assembling or evaluating employment or insurance information, or information relating to the hiring of dwelling units, or any combination thereof, concerning consumers for personal, family, or household purposes, for the purposes of furnishing investigative consumer reports to third parties, to be used with respect to consumers for employment purposes or, insurance primarily for personal, family, or household purposes, or for purposes relating to the hiring of dwelling units, but

does not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes, or a private investigator licensed in this state or employees of such a private investigator and does not include any licensed insurance agent, insurance broker, or solicitor, insurer, or life insurance agent.

(e) The term "file" when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by an investigative consumer reporting agency regardless of how the information is stored.

(f) The term "employment purposes", when used in connection with an investigative consumer report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

(g) The term "medical information" means information on a person's medical history or condition obtained directly or indirectly from a licensed physician, medical practitioner, hospital, clinic, or other medical or medically related facility.

SEC. 8. Section 1786.12 of the Civil Code is amended to read:

1786.12. An investigative consumer reporting agency shall only furnish an investigative consumer report under the following circumstances:

(a) In response to the order of a court having jurisdiction to issue such an order.

(b) In compliance with a lawful subpoena issued by a court of competent jurisdiction.

(c) In accordance with the written instructions of the consumer to whom it relates.

(d) To a person which it has reason to believe:

(1) Intends to use the information for employment purposes; or

(2) Intends to use the information serving as a factor in determining a consumer's eligibility for insurance or the rate for such insurance; or

(3) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider the applicant's financial responsibility or status; or

(4) Intends to use the information in connection with an order of a court of competent jurisdiction to provide support where the imposition or enforcement of the order involves the consumer; or

(5) Intends to use the information in connection with the hiring of a dwelling unit, as defined in subdivision (c) of Section 1940.

SEC. 9. Section 1786.16 of the Civil Code is amended to read:

1786.16. (a) Any person described in subdivision (d) of Section 1786.12 shall not procure or cause to be prepared an investigative consumer report unless the following applicable conditions are met:

(1) If an investigative consumer report is sought in connection with the underwriting of insurance, it shall be clearly and accurately disclosed in writing at the time the application form, medical form,

binder, or similar document is signed by the consumer that an investigative consumer report regarding the consumer's character, general reputation, personal characteristics, and mode of living may be made. If no signed application form, medical form, binder, or similar document is involved in the underwriting transaction, such disclosure shall be made to the consumer in a writing mailed or otherwise delivered to the consumer not later than three days after the report was first requested.

(2) If, at any time, an investigative consumer report is sought for employment purposes other than promotion or reassignment, the person procuring or causing the report to be made shall, not later than three days after the date on which the report was first requested, notify the consumer in writing that an investigative consumer report regarding the consumer's character, general reputation, personal characteristics, and mode of living will be made. This notification shall include the name of the consumer reporting agency conducting the investigation and a summary of the provisions of Section 1786.22.

(3) If an investigative consumer report is sought in connection with the hiring of a dwelling unit, as defined in subdivision (c) of Section 1940, the person procuring or causing the request to be made shall, not later than three days after the date on which the report was first requested, notify the consumer in writing that an investigative consumer report will be made regarding the consumer's character, general reputation, personal characteristics, and mode of living. The notification shall also include the name and address of the consumer reporting agency which will prepare the report.

(b) The provisions of subdivision (a) shall not apply to an investigative consumer report procured or caused to be prepared by an employer if the purpose of the employer is to:

(1) Determine whether or not an employee is to be retained; and

(2) To determine whether or not such employee is engaged in any criminal activity likely to result in a loss to the employer.

(c) Those persons described in subdivision (d) of Section 1786.12 of this title shall constitute the sole and exclusive class of persons who may cause an investigative consumer report to be prepared.

SEC. 10. Section 1786.18 of the Civil Code is amended to read:

1786.18. (a) Except as authorized under subdivision (b) no investigative consumer reporting agency shall make any investigative consumer report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 14 years.

(2) Suits from the date of filing and satisfied judgments which from the date of entry antedate the report by more than seven years.

(3) Unsatisfied judgments which, from the date of entry, antedate the report by more than 10 years.

(4) Unlawful detainer actions where the person against whom the action was filed was adjudged the prevailing party.

(5) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(6) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(7) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. Such items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result, except that records of arrest, indictment, and information misdemeanor complaints may be reported pending pronouncement of judgment on the particular subject matter of such records.

(8) Any other adverse information which antedates the report by more than seven years.

(b) The provisions of subdivision (a) are not applicable in the case of any consumer report to be used in the following transactions:

(1) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(2) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(3) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

SEC. 11. Section 1786.40 of the Civil Code is amended to read:

1786.40. (a) Whenever insurance for personal, family, or household purposes, employment, or the hiring of a dwelling unit involving a consumer is denied or the charge for such insurance or the hiring of a dwelling unit is increased either wholly or partly because of information contained in an investigative consumer report form an investigative consumer reporting agency, the user of the investigative consumer report shall so advise the consumer against whom such adverse action has been taken and supply the name and address of the investigative consumer reporting agency making the report.

(b) Whenever insurance for personal, family, or household purposes involving a consumer is denied or the charge for such insurance is increased either wholly or in part because of information obtained from a person other than an investigative consumer reporting agency, the consumer, or another person related to the consumer and acting on the consumer's behalf and bearing upon the consumer's general reputation, personal characteristics or mode of living, the user of such information shall, within a reasonable period of time, and upon the consumer's written request for the reasons for such adverse action received within 60 days after learning of such adverse acton, disclose the nature and substance of the information to the consumer. The user of such information shall clearly and

accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer. The user may withhold the substance of such medical information, as defined in subdivision (g) of Section 1786.2, but shall inform the consumer of the existence of any such medical information withheld. The consumer shall have a right to be informed in writing of the substance of such information upon written authorization from the consumer's attending physician providing the information. The user shall inform the consumer of the consumer's right to be informed in writing of the substance of such withheld information at the time of disclosure pursuant to this subdivision.

CHAPTER 1128

An act to add Chapter 4.1 (commencing with Section 18950) to Part 3 of Division 9 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Chapter 4.1 (commencing with Section 18950) is added to Part 3 of Division 9 of the Food and Agricultural Code, to read:

CHAPTER 4.1. CALIFORNIA MEAT AND POULTRY SUPPLEMENTAL INSPECTION ACT

Article 1. Definitions and Short Title

18940. This chapter shall be known and may be cited as the California Meat and Poultry Supplemental Inspection Act and supplements the provisions of the California Meat and Poultry Inspection Act, Chapter 4 (commencing with Section 18650).

18940.5. Unless the context otherwise requires, the definitions contained in Article 1 (commencing with Section 18650) of Chapter 4 govern the construction of this chapter.

18941. "Inspector" means an employee of the department authorized to perform inspection functions under Chapter 4 (commencing with Section 18650) and under this chapter.

18942. "Licensed livestock meat inspector" means a person who is licensed by the director to perform inspection functions under this chapter.

18943. "Livestock" means any cattle, sheep, swine, and goat whether alive or dead.

18944. "Livestock product" means any carcass, part of the carcass, meat, or meat food product of any livestock.

18945. "Slaughter" means the stunning, bleeding, eviscerating, skinning, splitting, and preparing of livestock for human consumption.

18946. "Custom livestock slaughterhouse" means a licensed establishment where livestock are slaughtered and prepared for the owners of the livestock.

18947. "Meat processing establishment" means a licensed establishment required to be inspected by Chapter 4 (commencing with Section 18650) where livestock or poultry products are prepared by curing, drying, smoking, or rendering or where livestock products of swine are cooked, and the products are sold on the premises to household consumers.

18948. "Sanitary" means free from dirt, filth, and contamination and free from any other substance or organisms which are known to be injurious to human health or which would render the product adulterated.

18949. "Establishment" means any business, firm, or facility that is required to be licensed by the director under this chapter.

Article 2. General Provisions

18950. The Legislature finds and declares that:

(a) Sausage products, cured and smoked meat products, and custom slaughtered carcasses which are processed and sold at retail meat processing establishments are an important source of the food supply in California; and it is essential and in the public interest that the health and welfare of consumers of these products are protected by ensuring that meat, both slaughtered and processed, is wholesome and not adulterated.

(b) Meat processing establishments and custom slaughter establishments exempt from federal inspection have been required to be inspected in California.

(c) There is a public demand for specialty meat food products and there has been an increase in the number of meat processing establishments manufacturing these products.

(d) Specialty meat food products are sold and displayed in meat markets and are difficult to distinguish from United States Department of Agriculture inspected and passed products.

18951. The Legislature further finds and declares that:

(a) A significant number of persons raise their own animals or purchase their animals alive and then have them slaughtered.

(b) Rather than have their animals slaughtered under unsanitary conditions, those persons would prefer to have their animals slaughtered at sanitary slaughter establishments and have an informed determination made as to the fitness of the carcasses and parts for food.

(c) With the reduction in number of United States Department

of Agriculture inspected slaughter plants in California, there has been a substantial increase in small custom slaughter houses to serve that need.

18952. The objectives of this chapter are to require sanitation and wholesomeness inspection at licensed custom slaughter establishments and licensed meat processing establishments exempt from federal inspection and to provide a cost-effective program using trained and licensed establishment personnel under department supervision.

Article 3. Regulations

18960. The director may adopt, by regulation, standards and requirements relating to inspection, sanitation, facilities, equipment, reinspection, preparation, processing, buying, selling, transporting, storing, identification, recordkeeping, registration and labeling, and marking for carrying out the purposes of this chapter.

18961. The director, by regulation, may adopt provisions of the rules and regulations made under federal acts with such changes therein as he or she deems appropriate to make them applicable to operations and transactions subject to this chapter.

18962. The director may adopt, by regulation, provisions to examine applicants for the position of licensed livestock meat inspector.

Article 4. Inspection Granting and Withdrawal

18970. (a) Prior to the issuance of a license to an establishment required to be licensed pursuant to Article 8 (commencing with Section 19010), the establishment shall meet the department's building and equipment standards.

(b) Building plans and specifications shall be submitted to the director for approval prior to any intended construction or major reconstruction for any establishment licensed pursuant to Article 8 (commencing with Section 19010).

18971. The director shall investigate the sanitary conditions of each establishment required to be licensed pursuant to Article 8 (commencing with Section 19010) and shall withdraw or otherwise refuse to provide inspection services at any establishment where the sanitary conditions are such as to render adulterated or permit adulteration of any livestock product or poultry product which is prepared or handled at such establishment. No such establishment shall be operated without inspection.

18972. The director may inspect, reinspect, or order the reinspection of any livestock or poultry product which is slaughtered, processed, or stored in an establishment licensed pursuant to Article 8 (commencing with Section 19010).

18973. (a) Licensed livestock meat inspectors and department inspectors are authorized to supervise the operations of licensed

establishments, to order the establishments not to operate until required standards are met, and to cease operations when the standards are violated. These persons are also authorized to require withholding from movement, sale, or the delivery of products which may be unfit, because the products were derived from unfit animals or processed in unsanitary conditions and to require denaturing and condemnation of the unfit products.

(b) The director may immediately withdraw or refuse to provide inspection services to any establishment under this chapter that fails to cease operations, hold any retained product, or destroy any condemned product in accordance with the order of a department inspector or licensed livestock meat inspector. It is unlawful to violate any such order.

18974. The director may order any labeling or containers to be withheld from use if he or she determines that the labeling is false or misleading or the containers are of a misleading size or form.

18975. If an action of a livestock meat inspector or department inspector in condemning any livestock or poultry product is questioned, appeal by the licensed establishment operator may be made to the immediate supervisor of the inspector and from his or her decision appeal may be made to the Chief of the Bureau of Meat Inspection. The operator shall abide by the decision of the inspector until or unless the decision is modified by the supervisor or the chief.

18976. If slaughtering, carcass preparation, or processing of any meat, meat products, poultry, or poultry products, or training of licensed livestock meat inspectors is conducted in an establishment licensed under Article 8 (commencing with Section 19010) during hours considered overtime for state employees or on legal holidays, the owner or operator of the establishment shall, by contract or agreement with the department, pay the additional costs for salaries and expenses for persons employed by the department, as determined by the director, to conduct the necessary inspection work or training during the overtime period.

18977. The director may require a deposit to pay for the overtime charges which he or she shall deposit in the General Fund, and may refuse inspection if the deposit is not made in a timely fashion. The director shall withdraw inspection services at any establishment licensed under Article 8 (commencing with Section 19010) that does not pay the overtime charges 15 days after the mailing of an invoice therefor.

Article 5. Livestock Meat Inspector License—General Provisions

18980. (a) The application fee for a livestock meat inspector's license is twenty-five dollars ($25). If an applicant for a license does not take the examination within one year after the date of the receipt of the application by the director, the application expires. Reexamination requires the payment of an additional application fee.

(b) Each license shall expire on the last day of the calendar year for which it is issued. The fee shall not be prorated.

18981. Application for renewal of a license accompanied by a fee of twenty-five dollars ($25) shall be made on or before its expiration. To any fee which is not paid when due there shall be added a penalty of ten dollars ($10). Failure to pay the renewal fee plus the penalty within 90 days of expiration shall cause a revocation of a license.

18982. The director shall conduct periodic training for licensed livestock meat inspectors to maintain and increase their competence in the performance of their official duties.

18983. Licensed livestock meat inspectors shall participate in training meetings sponsored by the director to maintain and increase their competence in the performance of their official duties. Failure to participate may be a cause to revoke their license.

Article 6. Livestock Meat Inspector License—Custom Livestock Slaughter

18990. (a) Each person, before acting as a livestock meat inspector in a livestock custom slaughterhouse, shall apply to the director and shall receive from the director a license after passing an examination and a demonstration that shows the applicant's ability to understand laws and regulations which pertain to meat inspection and a practical knowledge of all the following:

(1) Conditions which affect adulteration and wholesomeness of livestock and livestock products.

(2) The anatomy of livestock.

(3) Sanitary livestock slaughter and dressing procedures.

(4) Sanitation of the facilities and equipment used in custom livestock slaughterhouses.

(b) Applicants shall not be less than 18 years old.

18991. (a) A licensed livestock meat inspector shall, in accordance with regulations adopted hereunder, conduct antemortem examination of each animal to be slaughtered in a licensed establishment and shall permit the slaughter of apparently healthy animals and withhold from slaughter all animals suspected, as well as those plainly showing evidence of a disease. Animals so withheld shall be examined by a department employee who shall order the disposition of the animal pursuant to the regulations adopted hereunder.

(b) The licensed livestock meat inspector shall conduct a postmortem examination and make dispositions of carcasses and parts thereof in accordance with regulations adopted hereunder.

(c) A licensed livestock meat inspector shall conduct a sanitation inspection before the establishment commences operations for the day, and make periodic inspections throughout the day.

(d) The licensed livestock meat inspector shall order the establishment not to begin operations or to cease operations at any time that the establishment sanitation fails to meet the requirements

of this chapter and the regulations adopted thereunder, or at any time any product is not handled, retained, condemned, or disposed of in violation of this chapter or the regulations thereunder.

(e) Passed carcasses and parts thereof shall be stamped by the licensed livestock meat inspector or under his or her supervision with an approved California identification number.

Article 7. Livestock Meat Inspector License—Meat Processing Establishment

19000. Each person, before acting as a licensed livestock meat inspector in a retail meat processing establishment, shall apply to the director and receive from the director a license after passing an examination and a demonstration that shows the applicant's ability to understand laws and regulations which pertain to meat inspection and a practical knowledge of all the following:

(a) Conditions which affect adulteration, misbranding, and wholesomeness of livestock and poultry products.

(b) Sanitary meat and poultry processing procedures.

(c) Sanitation of the facilities and the equipment used in retail meat processing establishments.

19001. (a) A licensed livestock meat inspector shall conduct a sanitation inspection before the establishment commences operations for the day, and shall make periodic inspections throughout the day.

(b) The licensed livestock meat inspector shall order the establishment not to begin operations or to cease operations at any time that the establishment sanitation fails to meet the requirements of this chapter and the regulations adopted thereunder, or at any time any product is not handled, retained, condemned, or disposed of in violation of this chapter or the regulations thereunder.

(c) The licensed livestock meat inspector shall direct the application of the mark of inspection as provided by regulations on products that are inspected by him or her and found to be wholesome, not adulterated, and derived from United States Department of Agriculture inspected carcasses.

19002. The director may suspend or revoke the license of a licensed livestock meat inspector for permitting the processing or labeling of products not meeting the requirements provided for in this article.

Article 8. Licensed Meat Processing and Custom Livestock Slaughter Establishments

19010. (a) Each person shall, before operating a meat processing establishment or a custom livestock slaughterhouse, file an application accompanied with an application fee, with the director for a license to operate the establishment. The application shall be in such form as the director may prescribe.

(b) The application fee is fifty dollars ($50) for a license for one year for each establishment which the applicant desires to operate. Each license shall expire on the last day of the calendar year for which it was issued. The fee shall not be prorated.

19011. (a) Application for renewal of a license accompanied by a fee of fifty dollars ($50) shall be made on or before its expiration. To any fee which is not paid when due, there shall be added a penalty of twenty dollars ($20). Failure to pay the renewal fee plus the penalty within 90 days of expiration shall cause a revocation of a license.

(b) No person shall operate an establishment performing any of the functions stated in this chapter unless the establishment is licensed and continues to meet building and sanitation standards required by this chapter and the regulations thereunder.

19012. No person shall operate a licensed establishment performing the functions stated in this chapter unless all livestock and livestock products are inspected for wholesomeness and the facilities are inspected for sanitation by a licensed livestock meat inspector.

19013. No person shall operate a meat processing establishment unless all livestock and poultry products used in processing and to be sold have been inspected by the United States Department of Agriculture or the poultry products have been inspected in accordance with the requirements of Chapter 3 (commencing with Section 24951) of Part 1 of Division 12 and the processing of the product is inspected by a licensed livestock meat inspector.

19014. Plant sanitation, sanitary dressing procedures, processing procedures, vehicle equipment, facility standards, and sanitation, including transportation and storage of products, shall follow procedures which may be set forth in regulations or operations manuals adopted by the department.

19015. Livestock carcasses and parts and livestock and poultry products shall not be packed, repacked, cut up, recut, or sold unless each container or each part or each carcass, whichever is applicable, is marked in a manner which is required by this chapter and the regulations thereunder.

19016. (a) All custom slaughtered livestock carcasses and parts shall be marked in a manner required by the director to identify the inspected premises and that the products are not for sale.

(b) The director shall determine, by regulation, the official design of the mark which is required by this chapter.

19017. It is unlawful to do any of the following:

(a) Operate an establishment not licensed by the director.

(b) Operate an establishment that is not clean.

(c) Operate an establishment in a manner or under conditions which are not sanitary.

(d) Operate an establishment that does not meet the sanitary building or equipment standards pursuant to the regulations of this chapter.

(e) Operate an establishment in violation of an order of a licensed livestock meat inspector or a department inspector.

(f) Dispose of condemned and inedible livestock carcasses or parts of livestock products in violation of this chapter or the regulations thereunder.

(g) Misbrand or mislabel livestock and poultry products.

Article 9. Exemptions

19020. This chapter does not apply to:

(a) Owners who slaughter, on their own premises, animals of their own raising where the meat is not for sale, but used exclusively by the owners, their households and members of their families and nonpaying guests.

(b) A mobile slaughter operator who provides such services to an owner as specified above in subdivision (a) where the slaughter occurs on the owner's premises and the meat is thereafter transported for the owner to an establishment for further processing.

(c) Persons solely engaged in cutting, wrapping, and otherwise processing farm or custom slaughter livestock or the processing and sale of fresh meats derived from United States Department of Agriculture inspected carcasses except the curing, smoking, and preparing cooked or smoked sausages or cooked pork products which are not exempted under subdivision (b) of Section 18814.

(d) Livestock slaughter and meat and poultry processing inspected by the United States Department of Agriculture.

Article 10. Violations and Penalties

19030. The director may, after a hearing conducted pursuant to Section 11346.8 of the Government Code, refuse to issue a license or renew a license and may revoke or suspend any license for any violation of or failure to comply with any provision of this chapter or any of the regulations thereunder. However, if the director finds evidence of willful or repeated violations, he or she may immediately suspend the license pending a final disposition of the matter.

19031. A violation of the provisions of this chapter is a misdemeanor.

19032. Any person that violates any provision of this chapter or any regulation which is issued pursuant to it is liable civilly for a penalty in an amount not to exceed a sum of five hundred dollars ($500) for each violation. Any money which is recovered pursuant to this section shall be paid into the General Fund.

19033. The Attorney General shall, upon complaint by the director, or may upon his or her own initiative, if after examination of the complaint and evidence he or she believes a violation has occurred, bring an action for civil penalties in the name of the people of this state in any court of competent jurisdiction in this state against any person violating any provision of this chapter.

19034. In addition to the remedies provided in this chapter, the department may bring an action in superior court and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of this chapter or the rules and regulations promulgated under this chapter. Any proceeding under the provisions of this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The department shall not, however, be required to allege facts necessary to show or tending to show lack of adequate remedy at law or to show or tending to show irreparable damage or loss. The court may require such acts or course of conduct as necessary to effectuate the purposes of this chapter.

19035. It is unlawful for any person to slaughter any livestock or prepare any such livestock products which are appropriate for use as human food at any custom livestock slaughterhouse or retail processing establishment except in compliance with the requirements of this chapter.

19036. It is unlawful for any person to do with respect to any livestock which is appropriate for use as human food, any act, while it is being transported or held in storage after the transportation, which is intended to cause or has the effect of causing it to be adulterated.

19037. It is unlawful for any person to violate any provision of the regulations promulgated by the director which are applicable to this chapter.

19038. It is unlawful for any person to knowingly represent that an article has been examined by a licensed livestock meat inspector or department inspector or exempted under this chapter when in fact it has respectively not been so examined or exempted.

19039. It is unlawful for any person to assault, resist, impede, intimidate, or interfere with any person while engaged in the performance of duties under this chapter.

Article 11. Disposition of Funds

19040. The director shall, at least once each month, report to the Controller the total amount of any money which is collected under this chapter. The director shall, at the same time, pay into the State Treasury the entire amount of the receipts which shall be credited to the General Fund and expended in carrying out the provisions 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 1129

An act to amend Section 1808 of, and to add Sections 1803.5 and 1808.7 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 1803.5 is added to the Vehicle Code, to read:

1803.5. Every clerk of a court or traffic adjudication board, or hearing officer or judge if there be no clerk, when a person who receives a notice to appear at a court or board proceeding for a violation of any statute relating to the safe operation of vehicles is granted a continuance of the proceeding in consideration for attendance at a school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, and which results in a dismissal of the complaint in consideration for that attendance, shall prepare an abstract of the record of the court or board proceeding, certify the abstract to be true and correct, and cause the abstract to be forwarded to the department at its office at Sacramento within 10 days after the complaint is dismissed.

SEC. 2. Section 1808 of the Vehicle Code is amended to read:

1808. Notwithstanding Sections 16005 and 20012, and except as provided in Sections 1808.4, 1808.5, 1808.6, and 1808.7, all records of the department relating to the registration of vehicles, such other information as is contained on an application for a driver's license, and abstracts of convictions and of accident reports required to be sent to the department in Sacramento shall be open to public inspection during office hours.

SEC. 3. Section 1808.7 is added to the Vehicle Code, to read:

1808.7. The record of the department relating to a proceeding and dismissal under Section 1803.5 for participation by a person in a school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, shall be confidential and shall not be disclosed to any person, except a court, or any traffic adjudication board, and shall be used only for statistical purposes by the department.

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 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 1130

An act to amend Sections 27554 and 27562 of, and to add Sections 27532, 27533, 27534, 27593, and 27594 to, the Food and Agricultural Code, relating to eggs.

[Approved by Governor September 16, 1982 Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 27532 is added to the Food and Agricultural Code, to read:

27532. The regulations relating to grade standards which are adopted pursuant to subdivision (a) of Section 27531 shall be consistent with the grade standards promulgated by the United States Department of Agriculture contained in Title 7, Code of Federal Regulations, Section 2856.216.

SEC. 2. Section 27533 is added to the Food and Agricultural Code, to read:

27533. Regulations adopted pursuant to this chapter relating to egg shell surveillance inspection shall be consistent with any federal standards or procedures promulgated by the United States Department of Agriculture on that subject.

SEC. 3. Section 27534 is added to the Food and Agricultural Code, to read:

27534. The director shall adopt regulations by which eggs which do not meet the size or appearance standards generally required for marketing but which are healthy for consumption may be sold directly to consumers for their own family use.

SEC. 4. Section 27554 of the Food and Agricultural Code is amended to read:

27554. The moneys which are received by the director pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund and shall be used only for the administration and enforcement of this chapter, including, but not limited to, payments to commissioners pursuant to Article 5 (commencing with Section 27561). The moneys are exempt from the provisions of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 27562 of the Food and Agricultural Code is amended to read:

27562. (a) The director shall determine the necessary amount to be expended by each county and the department to achieve adequate administration and enforcement of this chapter, including, but not limited to, uniformity of inspection in all counties.

(b) To make the determination for purposes of subdivision (a), the director shall determine the amount of funds generated by the fees collected pursuant to Article 4 (commencing with Section

27551) that shall be distributed to counties where point-of-origin inspections are performed pursuant to Section 27593. The director shall also determine the amount of funds generated by the fees collected pursuant to Article 4 (commencing with Section 27551) that shall be distributed to those counties that choose to enter into an agreement with the director to perform inspections of retail operations upon request pursuant to Section 27594.

SEC. 6. Section 27593 is added to the Food and Agricultural Code, to read:

27593. A commissioner in each county or the director shall perform a point-of-origin inspection on the eggs in the county of their origin to ensure that the eggs inspected meet all applicable regulations.

The inspections performed under this section shall include inspections at shell egg packing plants and major distribution points.

Regulations adopted to implement this section shall be developed in consultation with the Shell Egg Advisory Committee.

SEC. 7. Section 27594 is added to the Food and Agricultural Code, to read:

27594. (a) The director, or the commissioner under the direction and supervision of the director, shall inspect eggs at the point of destination upon the request of a retailer or a consumer. The director, or the commissioner under the direction and supervision of the director, may also perform this inspection when he or she has probable cause to believe that a violation of this chapter or a regulation adopted thereunder is presently occurring or has recently occurred.

(b) In addition, retail inspection for monitoring purposes may be conducted by the commissioners subject to the following requirements:

(1) Retail inspection shall be conducted in one county within each California Agricultural Commissioners Association Region.

(2) The county shall be designated by the director, in consultation with the Shell Egg Advisory Committee, upon recommendation of the respective California Agricultural Commissioners Association Region.

(3) The retail monitoring inspection shall rotate among the counties in the region at least every three months.

This subdivision shall be operative only until January 1, 1985.

SEC. 8. 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 bill provides a procedure to reimburse the local agency an amount sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1131

An act to add Sections 1203.1c and 1203.1d to the Penal Code, relating to crime.

[Approved by Governor September 16, 1982 Filed with Secretary of State September 17, 1982]

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

SECTION 1. Section 1203.1c is added to the Penal Code, to read:

1203.1c. (a) In any case in which a defendant is convicted of an offense and is ordered to serve a period of confinement in a county jail or other local detention facility as a term of probation, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable costs of such incarceration, including incarceration pending disposition of the case. The reasonable cost of such incarceration shall not exceed the amount determined by the board of supervisors of the county to be the actual average cost thereof on a per-day basis. The court may, in its discretion, hold additional hearings during the probationary period. The court may, in its discretion before such hearing, order the defendant to file a statement setting forth his or her assets, liability and income, under penalty of perjury, and may order the defendant to appear before a county officer designated by the board of supervisors to make an inquiry into the ability of the defendant to pay all or a portion of such costs. At the hearing, the defendant shall be entitled to have the opportunity to be heard in person or to be represented by counsel, to present witnesses and other evidence, and to confront and cross-examine adverse witnesses. A defendant represented by counsel appointed by the court in the criminal proceedings shall be entitled to such representation at any hearing held pursuant to this section. If the court determines that the defendant has the ability to pay all or a part of the costs, the court may 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 court shall order that such payments be made as a condition of probation.

If practicable, the court shall order payments to be made on a monthly basis and the payments shall be made payable to the county officer designated by the board of supervisors. The order may be enforced as a violation of the terms and conditions of such probation upon willful failure to pay.

A payment schedule for reimbursement of the costs of incarceration pursuant to this section based upon income shall be developed by the county officer designated by the board of supervisors and approved by the presiding judges of the municipal and superior courts.

(b) The term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of incarceration and shall include, but shall not be limited to, the defendant's:

(1) Present financial obligations, including family support obligations, and fines, penalties and other obligations to the court.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonable discernible future position.

(3) Likelihood that the defendant shall be able to obtain employment within the one year period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial ability to reimburse the county for the costs.

(c) All sums paid by a defendant pursuant to this section shall be deposited in the general fund of the county.

(d) The foregoing provisions of this section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors. Such ordinance shall include a designation of the county officer responsible for collection of moneys ordered pursuant to this section and shall include a determination, to be reviewed annually, of the average per-day costs of incarceration in the county jail or other local detention facility.

SEC. 2. Section 1203.1d is added to the Penal Code, to read:

1203.1d. In determining the amount of an order made pursuant to this code requiring a defendant to make reparation or restitution to a victim of a crime, to pay any money as reimbursement for legal assistance provided by the court, to pay any cost of probation or probation investigation, or to pay any cost of jail or other confinement, the court, after determining the amount of any fine and penalty assessments, shall first determine the amount of restitution to any victim to be ordered and shall then determine the amount of any reimbursement for legal costs and, then, of any reimbursement for probation or incarceration costs.

CHAPTER 1132

An act to add Section 462.5 to the Penal Code, relating to burglary.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 462.5 is added to the Penal Code, to read:

462.5. (a) 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

custodial institution burglary. In any case in which a person is convicted of a misdemeanor custodial institution burglary, such person 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.

(b) As used in this section, "custodial institution burglary" shall mean a violation of Section 459 on the grounds of any jail or correctional institution with the intent to steal items to use or convert for use as weapons, escape tools, or intoxicating drugs.

(c) If the court grants probation under subdivision (a), it shall specify the reason or reasons for such order on the court record.

(d) Any person convicted of custodial institution burglary shall serve his or her sentence, including enhancements, consecutive to any other sentence in effect or pending. The felony sentence shall be calculated under Section 1170.1.

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 1133

An act to amend Sections 451 and 452 of the Penal Code, relating to arson, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 451 of the Penal Code is amended to read:

451. A person is guilty of arson when he willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of, any structure, forest land or property.

(a) Arson that causes great bodily injury is a felony punishable by imprisonment in the state prison for five, seven or nine years.

(b) Arson that causes an inhabited structure or inhabited property to burn is a felony punishable by imprisonment in the state prison for three, five or seven years.

(c) Arson of a structure or forest land is a felony punishable by imprisonment in the state prison for two, four or six years.

(d) Arson of property is a felony punishable by imprisonment in the state prison for 16 months, two, or three years. For purposes of

this paragraph arson of property does not include one burning or causing to be burned his own personal property unless there is an intent to defraud or there is injury to another person or another person's structure, forest land or property.

(e) In the case of any person convicted of violating this section while confined in a state prison, prison road camp, prison forestry camp, or other prison camp or prison farm, or while confined in a county jail while serving a term of imprisonment for a felony or misdemeanor conviction, any sentence imposed shall be consecutive to the sentence for which the person was then confined.

SEC. 2. Section 452 of the Penal Code is amended to read:

452. A person is guilty of unlawfully causing a fire when he recklessly sets fire to or burns or causes to be burned, any structure, forest land or property.

(a) Unlawfully causing a fire that causes great bodily injury is a felony punishable by imprisonment in the state prison for two, four or six years, or by imprisonment in the county jail for not more than one year, or by a fine, or by both such imprisonment and fine.

(b) Unlawfully causing a fire that causes an inhabited structure or inhabited property to burn is a felony punishable by imprisonment in the state prison for two, three or four years, or by imprisonment in the county jail for not more than one year, or by a fine, or by both such imprisonment and fine.

(c) Unlawfully causing a fire of a structure or forest land is a felony punishable by imprisonment in the state prison for 16 months, two or three years, or by imprisonment in the county jail for not more than six months, or by a fine, or by both such imprisonment and fine.

(d) Unlawfully causing a fire of property is a misdemeanor. For purposes of this paragraph, unlawfully causing a fire of property does not include one burning or causing to be burned his own personal property unless there is injury to another person or to another person's structure, forest land or property.

(e) In the case of any person convicted of violating this section while confined in a state prison, prison road camp, prison forestry camp, or other prison camp or prison farm, or while confined in a county jail while serving a term of imprisonment for a felony or misdemeanor conviction, any sentence imposed shall be consecutive to the sentence for which the person was then confined.

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, as soon as possible, that people and property within any jail or correctional facility are better protected against injury or damage as a result of arson by an inmate, it is necessary that this act go into immediate effect.

CHAPTER 1134

An act to add Section 4570.1 to the Penal Code, relating to interference with prisoner transportation.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 4570.1 is added to the Penal Code, to read:

4570.1. Every person who, without permission of the peace officer or corrections officer in charge of any vehicle, bus, van or automobile used for the transportation of prisoners, delivers a written communication to any prisoner or person detained therein, or being escorted to or from that vehicle, or takes from or gives to the prisoner any item, is guilty of a misdemeanor.

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 1135

An act to amend Sections 18930 and 18950 of, and to add Section 18801.1 to, the Government Code, relating to state civil service.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

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

SECTION 1. Section 18801.1 is added to the Government Code, to read:

18801.1. The Department of Personnel Administration shall designate managerial positions, as defined in subdivision (e) of Section 3513, and shall report the designations to the board annually.

Any disputes as to the managerial classification or position designations may be appealed to the State Personnel Board.

SEC. 2. Section 18930 of the Government Code is amended to read:

18930. Examinations for the establishment of eligible lists shall be competitive and of such character as fairly to test and determine the qualifications, fitness and ability of competitors actually to perform the duties of the class of position for which they seek appointment.

Examinations for managerial positions, except for career executive assignments as defined in Section 18547 and peace officers defined in subdivision (a) of Section 830.2 of the Penal Code, shall be held on an open basis unless the appointing authority determines otherwise. "Managerial position" means those positions having the duties which are defined under "managerial employees" in subdivision (e) of Section 3513. When an open examination is administered for a noncareer executive assignment managerial position, the names of the applicants who pass the examination with a passing score shall be placed on one list and ranked in the relative order of the examination score received.

Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skill, or any combination of these; and any investigation of character, personality, education and experience and any tests of intelligence, capacity, technical knowledge, manual skill, or physical fitness which the board deems are appropriate, may be employed.

SEC. 2.5. Section 18950 of the Government Code is amended to read:

18950. Vacancies in positions shall be filled insofar as consistent with the best interests of the state from among employees holding positions in appropriate classes, and appropriate promotional lists shall be established to facilitate this purpose, except as provided in Section 18930. Examinations shall be held on an open, nonpromotional basis when, in the judgment of the board, open competition will produce eligible lists with more highly skilled qualified candidates and is consistent with the best interests of the state.

The board may prescribe conditions under which state employees, persons on leave of absence, and persons whose names are on appropriate reemployment lists, may be permitted to compete in promotional examination and to attain eligibility for appointment.

The board may further prescribe conditions under which eligibility may be transferred from one promotional list to another promotional list when such lists are for the same class and have been established as a result of the same or a similar examination.

SEC. 3. This act shall become operative on July 1, 1983.

SEC. 4. The provisions of this act shall take effect only if Assembly Bill No. 3332 of the 1981–82 Regular Session is chaptered.

CHAPTER 1136

An act to amend Sections 488.5 669.5, and 11580.06 of, and to add Section 557.6 to, the Insurance Code, relating to insurance.

[Approved by Governor September 17, 1982 Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 488.5 of the Insurance Code is amended to read:

488.5. No insurer shall, in issuing or renewing a private automobile insurance policy to a peace officer, member of the California Highway Patrol, or firefighter, with respect to his operation of a private motor vehicle, increase the premium on such policy for the reason that the insured or applicant for insurance has been involved in an accident while operating an authorized emergency vehicle, as defined in subdivision (a) of Section 165 of the Vehicle Code or in paragraph (1) or (2) of subdivision (b) of Section 165 of the Vehicle Code, in performance of his duty during the hours of his employment.

As used in this section:

(a) "Peace officer" shall have the same meaning as defined in Section 830.1 of the Penal Code, subdivisions (a), (b), (d), (e), (g) and (h) of Section 830.2 of the Penal Code, subdivisions (b), (c), and (g) of Section 830.31 of the Penal Code, subdivision (k) of Section 830.4 of the Penal Code.

(b) "Policy" shall have the same meaning as defined in subdivision (a) of Section 660.

SEC. 2. Section 557.6 is added to the Insurance Code, to read:

557.6. Any peace officer as defined pursuant to this section who has been involved in an accident shall submit to his or her private automobile insurer within 30 days of the accident his or her written declaration under penalty of perjury stating whether or not at the time of the accident he or she was operating an authorized emergency vehicle, as defined in subdivision (a) of Section 165 of the Vehicle Code or in paragraph (1) or (2) of subdivision (b) of Section 165 of the Vehicle Code, in performance of his or her duty during the hours of his or her employment. In lieu of a written declaration, the peace officer may submit to the private automobile insurer a copy of the incident report filed by the peace officer with his or her employer.

As used in this section, "peace officer" shall have the same meaning as defined in subdivisions (d), (e), (g), and (h) of Section 830.2 of the Penal Code, subdivisions (b), (c), and (g) of Section 830.31 of the Penal Code, and subdivision (k) of Section 830.4 of the Penal Code.

SEC. 3. Section 669 5 of the Insurance Code is amended to read:

669.5. No insurer shall fail to renew any private automobile insurance policy of a peace officer, member of the California Highway Patrol, or firefighter, with respect to his operation of a private motor vehicle, for the reason that the insured has been involved in an accident while operating an authorized emergency vehicle, as defined in subdivision (a) of Section 165 of the Vehicle Code or in paragraph (1) or (2) of subdivision (b) of Section 165 of the Vehicle Code, in performance of his duty during the hours of his employment. As used in this section, "peace officer" shall have the same meaning as defined in Section 830.1 of the Penal Code, subdivisions (a), (b), (d), (e), (g) and (h) of Section 830.2 of the Penal Code, subdivisions (b), (c), and (g) of Section 830.31 of the Penal Code, subdivision (k) of Section 830.4 of the Penal Code.

SEC. 4. Section 11580.06 of the Insurance Code is amended to read:

11580.06. Except as may be otherwise provided in this article:

(a) The term "motor vehicle" means any vehicle designed for use principally upon streets and highways and subject to motor vehicle registration under the laws of this state.

(b) The term "insured" shall include the person or persons to whom any policy subject to this article is issued as named insured and any other person to whom coverage is afforded under the terms of any such policy.

(c) The term "bodily injury" shall include sickness or disease, including death resulting therefrom.

(d) The term "automobile" means any self-propelled motor vehicle, with four wheels, designed for use principally upon streets and highways and subject to motor vehicle registration under the laws of this state.

(e) The term "arrest" shall have the same meaning as set forth in Section 834 of the Penal Code.

(f) The term "operated by" or "when operating" shall be conclusively presumed to describe the conduct of the person sitting immediately behind the steering controls of the motor vehicle.

SEC. 5. 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 1137

An act to add Section 61765.8 to the Government Code, to amend Sections 16470 and 16658 of the Public Utilities Code, to amend Sections 25806 and 25929 of, to add Section 56042 to, and to add Chapter 6.5 (commencing with Section 56095) to Part 1 of Division 17 of, the Water Code, and to amend Sections 3 and 14 of the Siskiyou County Flood Control and Water Conservation District Act (Chapter 2121 of the Statutes of 1959), relating to special districts.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 61765.8 is added to the Government Code, to read:

61765.8. Notwithstanding Section 61765, in the Golden Hills Community Services District, the water standby or availability charge shall not exceed thirty dollars ($30) per year for each acre of land on which the charge is levied or thirty dollars ($30) per year for a parcel less than one acre.

This section, applicable only to the Golden Hills Community Services District, is necessary because of the unique and special water management and financing problems in the area included within the district.

SEC. 2. Section 16470 of the Public Utilities Code is amended to read:

16470. Charges added to an assessment are a lien on the land, except that if, during the year preceding the date on which the first installment of real property taxes which evidence the charges appears on the roll, 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, then the lien which would otherwise be imposed by this section shall not attach to such property and the district shall within three years after the amount is due file for record in the office of any county recorder a certificate specifying the amount, interest, and penalty due, the name and address as it appears on the records of the district of the person liable for the same, and the fact that the district has complied with all provisions of this part in the determination of the amount required to be paid. From the time of recordation of the certificate, the amount required to be paid together with interest and penalty constitutes a lien upon all real property in the county owned by the person or afterwards and before the lien expires acquired by him. The lien has the force, effect, and priority of a judgment lien and shall continue for 10 years from the time of the filing of the certificate unless sooner released or otherwise discharged. The lien may, within 10 years from the date

of the filing of the certificate or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record a new certificate in the office of the county recorder of any county and from the time of such filing the lien shall be extended to the real property in such county for 10 years unless sooner released or otherwise discharged.

SEC. 3. Section 16658 of the Public Utilities Code is amended to read:

16658. District taxes are a lien on the property on which they are levied, except that if, during the year preceding the date on which the first installment of real property taxes which evidence the charges appears on the roll, 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, then the lien which would otherwise be imposed by this section shall not attach to such real property and the costs of such charges relating to such property shall be transferred to the unsecured roll for collection. The enforcement of the collection of district taxes may be had in the same manner and by the same means as is provided by law for the enforcement of liens for county taxes.

SEC. 4. Section 25806 of the Water Code is amended to read:

25806. (a) In case any charges for water and other services or either remain unpaid the amount of the unpaid charges may, in the discretion of the district:

(1) If unpaid at the time specified for delivery of the assessment book to the collector, be added to and become a part of the annual assessment levied upon the real property upon which the water for which the charges are unpaid was used and upon the real property subject to the charges for any other district services and shall constitute a lien on that real property. However, if, during the year preceding the date on which the first installment of real property taxes which evidence the charges appears on the roll, 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, then the lien which would otherwise be imposed by this subdivision shall not be added to and become part of the annual assessment nor shall it attach to such real property.

(2) Be secured at any time by filing for record in the office of the county recorder of any county, a certificate specifying the amount of such charges and the name and address of the person liable therefor.

From the time of recordation of the certificate, the amount required to be paid together with interest and penalty constitutes a lien upon all real property in the county owned by the person or afterwards, and before the lien expires, acquired by him. The lien has the force, priority, and effect of a judgment lien and shall continue for 10 years from the date of the filing of the certificate unless sooner released or otherwise discharged. The lien may, within 10 years from

the filing of the certificate or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record a new certificate in the office of the county recorder of any county and from the time of such filing the lien shall be extended to the real property in such county for 10 years unless sooner released or otherwise discharged.

(b) Where the county assumes the responsibility of assessment and collection pursuant to Chapter 7 (commencing with Section 26500) of this part, the amount of the unpaid charges may be added to and become part of the annual assessment levied upon the real property upon which the water for which the charges are unpaid was used and upon the real property subject to the charges for any other district services and shall constitute a lien on that real property upon recordation of the order confirming the assessment in the office of the county recorder of the county in which the real property is situated. However, if, during the year preceding the date on which the first installment of real property taxes which evidence the charges appears on the roll, 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, then the lien which would otherwise be imposed by this subdivision shall not attach to such real property and the costs of such water and services or either, as confirmed, relating to such property shall be transferred to the unsecured roll for collection.

SEC. 5. Section 25929 of the Water Code is amended to read:

25929. The collector shall attend at the time and place specified in the assessment notice to receive assessment payments.

The collector shall accept payment of current year assessments even though prior year delinquencies on the real property may exist. The acceptance of the payment shall not in any manner affect the validity of any proceeding or action previously taken pursuant to Chapter 5 (commencing with Section 26075) or Chapter 6 (commencing with Section 26225) of this part.

SEC. 6. Section 56042 is added to the Water Code, to read:

56042. All ordinances of a county drainage district shall be adopted by the board of directors of the district, and shall be certified to, recorded, and published in the same manner as ordinances of a county. The initiative and referendum powers are hereby granted to the electors of a county drainage district to be exercised in relation to the enactment or rejection of ordinances of a county drainage district in accordance with the procedure established by the laws of this state for the exercise of those powers in relation to counties.

SEC. 7. Chapter 6.5 (commencing with Section 56095) is added to Part 1 of Division 17 of the Water Code, to read:

CHAPTER 6.5. DRAINAGE FEES

56095. In addition to all of the powers enumerated in this part, a county drainage district shall have the power to adopt by resolution and carry out any definite plan or system for accomplishing, facilitating, or financing all work which may be lawfully accomplished by a county drainage district and to enforce the plan or system by resolution. In order to carry out the plan or system, a district shall have the power, by ordinance, to prescribe, revise, and collect fees and charges for providing storm drainage facilities, including drainage outfall facilities, furnished or to be furnished to any new building, improvement, or structure constructed or to be constructed in the district; and whenever a storm drainage problem is referred to the district by any county or city located in whole or in part within the boundaries of the district, to require the installation of drainage improvements necessary or convenient for the needs of the district, including, but not limited to, residential, subdivision, commercial, and industrial drainage needs. Any county or city is hereby authorized to refer all drainage control problems arising under the Subdivision Map Act (commencing with Section 66410 of the Government Code) or otherwise to a county drainage district for solution. Revenues derived by a district under this chapter shall be used only to acquire, construct, reconstruct, maintain, and operate storm drainage facilities, including drainage outfall facilities, consistent with the plan or system.

SEC. 8. Section 3 of the Siskiyou County Flood Control and Water Conservation District Act (Chapter 2121 of the Statutes of 1959) is amended to read:

Sec. 3. The objects and purposes of this act are to provide, to the extent that the board may deem expedient or economical, for the control and disposition of the storm, flood, and other waters of said district and to that end the district is hereby created to be a body corporate and politic and as such shall have power:

(a) To have perpetual succession.

(b) To sue and be sued in the name of the district 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, purchase, gift, devise or lease; to hold, use, enjoy, sell, and contract to sell, lease, or dispose of real, personal and mixed property of every kind within or without the district necessary, expedient or advantageous to the full exercise and economic enjoyment of its purposes.

(e) To acquire and contract to acquire by purchase, donation or other lawful means in the name of the district from private persons, public and private corporations, associations, agencies or districts, lands, rights-of-way, easements, privileges, material, and property of every kind within or without the district, to do all work and to acquire, construct, maintain and operate any and all works and improvements within or without the district, and to make, execute,

carry out and enforce all contracts of every character, necessary, convenient, incidental, useful or proper to carry out any of the provisions, 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.

(f) To exercise the right of eminent domain to take any property located within the county necessary to carry out any of the objects or purposes of this act.

(g) To compel by injunction or other lawful means the owner or owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed, or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for such purpose or purposes. All costs of relocating or altering or otherwise changing existing works or structures shall be paid by the district; provided, however, that all costs of relocating or otherwise changing any portion of a state highway shall be paid for from funds available for rights-of-way for flood control purposes and not from funds appropriated for state highway purposes.

(h) To construct, maintain, repair and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, drains, tunnels, poles, posts, wires, lamps, powerplants, railroads, dredgers and all other auxiliary, incidental, necessary or convenient agencies, work or improvements that may be required to carry out, facilitate, repair, maintain and complete the same.

(i) To incur indebtedness, and to issue bonds in the manner herein provided and to provide for the issuance of warrants of the district in payment of district obligations and the registration of any warrants not paid for want of funds and the rate of interest such warrants shall bear after registration and until such payment.

(j) To cause assessments to be levied and collected for the purpose of paying any obligations of the district in the manner hereinafter provided.

(k) To appoint and employ such engineers, attorneys, assistants, and other employees as may be necessary and fix their compensation, including, if it deems it advisable, a clerk, superintendent of work, assessor, treasurer and tax collector, and define their powers and duties, and fix and determine the amount of bond required of each employee and pay the premium on each such bond; which said officers and employees and each of them shall serve at the pleasure of the board.

The board shall have the power to combine any two or more offices in its discretion.

(*l*) To establish and fix the boundaries of zones in the district as provided in this act; to make transfers of money from the general

fund of the district to any special fund and to create and administer such special funds as in their discretion may seem advisable, and to abolish the same; to create and administer revolving funds to facilitate and assist in the carrying on and completing of such acquisitions, works, and improvements provided for herein, and to abolish same; and to do any and all things necessary or incidental to the accomplishment of the things which are permitted to be done under this act.

(m) To make and enter into contracts with the United States, the State of California, any political subdivision, county, municipality, district, agency or mandatory of the State of California or of the United States and any department, board, bureau or commission of the State of California or the United States, or any person, firm, association or corporation, jointly or severally, for the acquisition of property rights or the construction, maintenance and operation in whole or in part of any or all works and improvements provided in this act.

(n) To lease or rent to or from any of the parties named in subdivision (m) of this section any property or rights necessary, in the opinion of the board, to accomplish or carry out any of the work or improvement or the maintenance thereof and under such terms and conditions as may be agreed upon between the parties.

(o) To receive and accept any and all contributions in labor, material or money from any of the parties named in subdivision (m) of this section, to be applied to the work or improvement herein provided for.

(p) To construct, purchase, lease or otherwise acquire works, and to purchase, lease, appropriate, or otherwise acquire surface water and water rights, useful or necessary to make use of water for any of the purposes authorized by this act.

(q) To do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of lands or inhabitants within the district, including but not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial, recreational and all other beneficial uses.

(r) To control flood and storm waters within the district and the flood and storm waters or streams outside the district, which flow into the district; to conserve such waters by storage in surface reservoirs, to divert and transport such waters for beneficial uses within the district; to release such waters from surface reservoirs to replenish and augment the supply of water in natural underground reservoirs and otherwise to reduce the waste of water and to protect life and property from floods within the district; to commence, maintain, intervene in, defend or compromise, in the name of the district, on behalf of the landowners therein, or otherwise to assume the cost and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or

of the common benefit of any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any and all actions or proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare the rights in natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use, the surface or subsurface water used or useful in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of actions or controversies between the owners of lands or water rights which do not affect the interests of the district.

(s) To cooperate and act in conjunction with the United States or with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, or with the County of Siskiyou, in the construction of any work for the controlling of flood or storm waters of or flowing into said district, or for the protection of life or property therein, or for the purpose of conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

(t) To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift, devise or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and to hold the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, 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 rights, works or other property of a kind which might be lawfully acquired or owned by said Siskiyou County Flood Control and Water Conservation District; to acquire by negotiation only the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water owned or controlled by the district or right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch, or conduit owned and controlled by the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual or any water right or water pumped, stored, appropriated or otherwise acquired or secured, for the use of the Siskiyou County Flood Control and Water Conservation District, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other party to said agreement.

(u) To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and to carry out and perform the terms of any contract so made; and for said purposes the district shall have in addition to the powers specifically set forth in this act, all powers, rights and privileges possessed by irrigation districts as set out in Chapter 2 (commencing with Section 23175) of Part 6 of Division 11 of the Water Code, not inconsistent with the provisions of this act.

(v) To construct, operate, and maintain, either on its own or in conjunction with any other public agency, public utility, or private person or private entity, or to permit others on district property or facilities to construct, own, operate, and maintain on such terms and conditions as the district deems appropriate, works to develop hydroelectric energy as a means of assisting in financing the construction, operation and maintenance of works for other beneficial uses and purposes, and to enter into contracts for the sale of the energy, or for the use of the energy by any public agency, public utility, or private entity, for a term not to exceed 50 years.

The power generated shall not be offered for sale directly by the

district to customers other than a public utility or public agency engaged in the distribution, use, or sale of electricity.

(w) Nothing herein contained shall be deemed to permit the district or its board of directors to acquire or interfere in existing water rights and water uses and facilities for distribution of the same on an involuntary basis, but nothing herein shall be deemed to prohibit negotiating and acquisition of existing rights, uses, and privileges in water by negotiation.

SEC. 9. Section 14 of the Siskiyou County Flood Control and Water Conservation District Act (Chapter 2121 of the Statutes of 1959) is amended to read:

Sec. 14. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in the district, and shall be held by the district, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act and all such property is exempt from taxation or assessment by the state, any county, city, or district. The board is authorized to hold, use, acquire, manage, occupy and possess said property, as provided herein if the board determines by resolution duly passed and entered in their minutes, that any district property, real or personal, is no longer necessary to be retained for the uses and purposes of the district, it may thereafter sell or otherwise dispose of said property, or lease the same, in the manner provided by law for the disposition and sale of property of counties, except that the title to real property, water rights or waterworks shall not be conveyed or alienated except by a vote of the electors at an election held for that purpose.

However, nothing in this section is intended to preclude the board from conveying or alienating title to real property, water rights, or waterworks on such terms and conditions as the board deems appropriate when the board deems it necessary, expedient, or advantageous to the full exercise and economic enjoyment of district purposes.

CHAPTER 1138

An act to amend Sections 34212, 34213, 34312, 34314, 34315, 34316.5, 34328, and 34354 of, and to add Section 34312.3 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 34212 of the Health and Safety Code is amended to read:

34212. "Housing project" means any work or undertaking to be

financed in whole or in part by the federal government or a state public body or to which the federal government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise, for any one or a combination of the following purposes:

(a) To demolish, clear, or remove buildings from any slum area. Such work or undertaking may embrace the adaptation of the area to public purposes, including parks or other recreational or community purposes.

(b) To provide decent, safe, and sanitary urban or rural dwellings, apartments, or other living accommodations for persons of low income and persons and households eligible for housing assistance pursuant to Section 34312.3. Such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes.

"Housing projects" also includes the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith.

For the purposes of this section, "state public body" means the state, any city, county, city and county, borough, commission, district, authority, or other subdivision or public body of the state.

SEC. 1.5. Section 34213 of the Health and Safety Code is amended to read:

34213. "Persons of low income" means persons or families whose income does not exceed that permitted by Section 50079.5, or persons or families eligible as lower-income households for assistance provided by state or federal housing programs intended primarily to assist lower-income households, as defined by Section 50079.5.

SEC. 2. Section 34312 of the Health and Safety Code is amended to read:

34312. Within its area of operation, an authority may undertake any of the following:

(a) Prepare, carry out, acquire, lease, and operate housing projects for persons of low income as authorized by this chapter and housing developments for persons of low income as authorized by Part 3 (commencing with Section 50900) of Division 31.

(b) Provide for the construction, reconstruction, improvement, alteration, or repair of all or part of any housing project.

(c) Provide leased housing to persons of low income.

(d) Provide financing for the construction or rehabilitation (including refinancing of existing obligations on the property to be rehabilitated) of dwelling accommodations for persons of low income, and for other persons when acting pursuant to authorization contained in Part 13 (commencing with Section 37910) of this division or Part 3 (commencing with Section 50900) of Division 31,

subject only to the limitations on income of borrowers or residents prescribed by the statutory provisions under which the authority is acting. With respect to financing activities conducted pursuant to Part 3 (commencing with Section 50900) or Part 4 (commencing with Section 51600) of Division 31, the authority shall obtain certification as a qualified mortgage lender pursuant to Section 50094.

(e) Provide counseling, referral, and advisory services to persons and families of low or moderate income in connection with the purchase, rental, occupancy, maintenance, or repair of housing.

(f) Provide such security, as the authority deems necessary, for the protection of a project and its inhabitants.

(g) Assist housing projects pursuant to Section 34312.3.

SEC. 3. Section 34312.3 is added to the Health and Safety Code, to read:

34312.3. An authority may develop, rehabilitate, or finance housing projects, including, but not limited to, housing projects pursuant to Chapter 7 (commencing with Section 52075) of Part 5 of Division 31; or participate in the development, rehabilitation, or financing of housing projects; or purchase, sell, lease, own, operate, or manage housing projects so assisted, subject to all of the following requirements:

(a) Except as prescribed by subdivision (b), for a period of at least 20 years, all housing projects assisted pursuant to this section shall be available to, on a priority basis, or occupied by, persons and families of low or moderate income, as defined by Section 50093, and not less than 20 percent of all such assisted units shall be available to, on a priority basis, or occupied by, persons and families of low income at affordable housing cost. "Affordable housing cost" shall be consistent with the requirements of Section 50052.5 or with any program requirements of a federal or state subsidy utilized in the housing development. To the extent that the requirements of this subdivision differ from the requirements of Chapter 7 (commencing with Section 52075) of Part 5 of Division 31, when a housing project is financed pursuant to Chapter 7, the requirements of this subdivision shall control.

(b) A housing project may be assisted for households other than those set forth in subdivision (a). The revenues derived from the sale, lease, or rent of such a housing project shall be established at a level which at least ensures the economic feasibility of the project. Any portion of these revenues determined by the authority to be excess shall be made available only to further assist housing provided for lower-income households.

(c) In determining whether the percentage requirements of subdivision (a) have been achieved, the following terms and conditions shall be applied:

(1) No unit shall be included in ascertaining the number of lower-income units required by subdivision (a) if the tenant in that unit receives housing payment assistance pursuant to Section 8 of the

United States Housing Act of 1937, or its successor programs, or state programs providing similar levels of rental assistance.

(2) The requirement that 20 percent of the housing units assisted pursuant to this section shall apply to the aggregate number of units assisted pursuant to subdivisions (a) and (b).

(3) The provisions of this section shall apply only to housing units first assisted after January 1, 1983, and the percentage requirements of subdivision (a) shall be complied with by January 1, 1986, and on January 1 of each even-numbered year thereafter.

(4) The percentage requirement shall be achieved within each of the following categories: (1) rental housing development; (2) homeownership development; and (3) rehabilitation financing.

(d) No resident in housing units assisted pursuant to this section shall be denied continued occupancy or ownership because, after admission, the resident's family income increases to exceed the eligibility level. However, the authority shall ensure that percentage requirements of subdivision (a) continue to be met by providing the next available unit or units to persons of low income.

(e) For the purposes of financing housing projects pursuant to Chapter 7 (commencing with Section 52075) of Part 5 of Division 31, a "housing project" has the same meaning as "multifamily rental housing project" as used in Chapter 7 (commencing with Section 52075) of Part 5 of Division 31.

(f) It is the intent of the Legislature, and the Legislature declares, that housing authorities are the local entities with primary responsibility for providing affordable housing for low- and very-low-income households within their jurisdictions. However, recognizing that affordable housing projects only for low-income households cannot be adequately assisted or developed with currently available funds, and that excess funds from housing projects assisted pursuant to this section can be utilized to further assist in the provision of affordable housing for lower-income households, it is the intent of the Legislature that the authorization of this section is to be used to enhance and supplement the traditional housing authority role of providing affordable housing only for low-income households.

SEC. 4. Section 34314 of the Health and Safety Code is amended to read:

34314. An authority may arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project assisted pursuant to Section 34312.3, or the occupants thereof. Notwithstanding anything to the contrary contained in this chapter or in any other law, an authority may include in any contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor and any conditions which the Federal Government has attached to its financial aid of the project.

SEC. 5. Section 34315 of the Health and Safety Code is amended

to read:

34315. An authority may:

(a) Lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project assisted pursuant to Section 34312.3 and establish and revise the rents or charges for them.

(b) Own, hold, and improve real or personal property.

(c) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest in property.

(d) Acquire any real property by eminent domain.

(e) Sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest in it.

(f) Insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards.

(g) Lend upon the security of a mortgage or deed of trust, directly or by purchase from one or more qualified mortgage lenders, in connection with the sale of real property to persons of low income, the financing of construction or rehabilitation pursuant to this part, or the implementation of government housing and rehabilitation financing programs for persons of low income, and for other persons when acting pursuant to authorization contained in Part 13 (commencing with Section 37910) of this division or Part 3 (commencing with Section 50900) of Division 31, subject only to the limitations on income of borrowers or residents prescribed by the statutory provisions under which the authority is acting. With respect to financing activities conducted pursuant to Part 3 (commencing with Section 50900) or Part 4 (commencing with Section 51600) of Division 31, the authority shall obtain certification as a qualified mortgage lender pursuant to Section 50094.

(h) Procure insurance or guarantees from the federal government or the California Housing Finance Agency or from any person licensed to insure mortgages in this state of the payment of all or part of any debts, whether or not incurred by the authority, secured by mortgages or deeds of trust on any property included in any of its housing projects or otherwise financed pursuant to this chapter or secured by mortgages or deeds of trust pursuant to Part 13 (commencing with Section 37910) of this division or Part 3 (commencing with Section 50900) of Division 31.

SEC. 6. Section 34316.5 of the Health and Safety Code is amended to read:

34316.5. The proceeds of bonds issued pursuant to this part to finance housing as provided in subdivision (d) of Section 34312, Section 34312.3, and subdivision (g) of Section 34315 and revenues accruing to the agency on account of such a program may be invested in any securities or obligations authorized by the resolution providing for issuance of the bonds or authorized by its trust indenture, when the bond proceeds or revenues are not immediately required to provide financing under the program. Such investments

may include mortgage obligations on single-family dwellings purchased from a state or federally chartered bank or savings and loan association pursuant to a repurchase agreement under which the bank or savings and loan association will repurchase the mortgage obligation on or before a specified date and for a specified amount, provided that the mortgage or the repurchase agreement shall be insured by a mortgage insurance company licensed to insure mortgages in the State of California and qualified to provide insurance on mortgages purchased by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

The authority provided in this section is additional and alternative to any other authorization for investment contained in this part or other provisions of law.

SEC. 7. Section 34328 of the Health and Safety Code is amended to read:

34328. At least once a year, an authority shall file with the clerk of the respective city or county and with the Department of Housing and Community Development a report of its activities for the preceding year. This report shall contain information adequate for the city, county, or department to determine that the requirements of Section 34312.3 have been met for any activity undertaken pursuant to that section. An authority shall make either directly or through any national, regional, or state housing association or organization of which it may be a member, recommendations with reference to additional legislation or other action which it deems necessary to carry out the purposes of this chapter, to the respective legislative bodies having jurisdiction thereof.

SEC. 8. Section 34354 of the Health and Safety Code is amended to read:

34354. By resolution, an authority may authorize bonds. The resolution, its trust indenture, or mortgage may provide for:

(a) The issuance of bonds in one or more series.

(b) The date the bonds shall bear.

(c) The date of maturity.

(d) The interest rate, not exceeding 12 percent a year.

(e) The denomination of the bonds.

(f) The form of the bonds, either coupon or registered.

(g) The conversion or registration privileges which the bonds shall carry.

(h) The rank or priority of the bonds.

(i) The manner of execution of the bonds.

(j) The medium of payment in which the bonds are payable.

(k) The place of payment.

(*l*) The terms of redemption, with or without premium.

CHAPTER 1139

An act to add and repeal Chapter 2.5 (commencing with Section 401) to Part 1 of Division 1 of, and to add Article 8 (commencing with Section 631) to Chapter 3 of Part 1 of Division 1 of, the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Chapter 2.5 (commencing with Section 401) is added to Part 1 of Division 1 of the Public Utilities Code, to read:

CHAPTER 2.5. PUBLIC UTILITIES COMMISSION REIMBURSEMENT FEES

Article 1. Collection and Disposition of Fees

401. It is the intent of the Legislature, in enacting this chapter, that the fees levied and collected pursuant thereto shall produce only enough revenues to fund the commission for all of the following:

(a) Its authorized budget for each fiscal year to regulate water and sewer system corporations, less that amount to be paid from special accounts or funds except that established by this chapter, reimbursements, federal funds, and the unencumbered balance from the preceding year.

(b) A reserve, in addition to the commission's total authorized annual budget to regulate water and sewer system corporations, to be determined by the commission based on its past and projected operating experience.

(c) Any adjustment appropriated by the Legislature.

402. (a) There is hereby created, in the General Fund, the Public Utilities Commission Utilities Reimbursement Account.

(b) All fees collected by the commission pursuant to this chapter shall be transmitted to the State Treasurer quarterly for deposit in the account.

(c) Notwithstanding any other provision of law, all fees and charges collected pursuant to this code by the commission from each person and corporation subject to Section 411 shall be deposited in the account, in addition to the fee authorized by Section 411.

403. All fees paid pursuant to this chapter, exclusive of any penalties for delinquency, shall be allowed by the commission as an ordinary operating expense for purposes of establishing rates or charges. The commission shall authorize each person or corporation subject to Section 411 to annually adjust its rates or charges for intrastate services so as to collect from its customers or subscribers an amount equal to the amount of the fee required by that section.

404. If any person or corporation subject to this chapter is in default of the preparation and submission of any report or the payment of any fee required by this chapter for a period of 30 days or more, the commission may suspend or revoke the certificate of public convenience and necessity, permit, or other operating authority of the person or corporation, may estimate from all available information the appropriate fee, and may add to the amount of that estimate a penalty not to exceed 25 percent of the amount on account of the failure, refusal, or neglect to prepare and submit such report or to pay such fee, and the person or corporation shall be estopped to complain of the amount of the commission's estimate. Upon payment of the fee and penalty, if applicable, the certificate, permit, or other operating authority of the person or corporation suspended in accordance with this section shall be reinstated.

The commission may grant a reasonable extension of the 30-day period to any person or corporation upon written application and a showing of the necessity of the extension.

Upon revocation of any certificate, permit, or other operating authority pursuant to this section, all fees in default shall become due and payable immediately.

405. The commission may bring an action, in its own name or in the name of the people of the state, in any court of competent jurisdiction, for the collection of delinquent fees estimated under Section 404, or for an amount due, owing, and unpaid to it, as shown by report filed by the commission, together with a penalty of 25 percent for the delinquency.

406. The commission may authorize refunds of the fees provided for in this chapter when the fees were collected in error.

407. The commission may adopt rules that it deems necessary to carry out the provisions of this chapter.

Article 2. Water and Sewer System Corporations

411. The commission shall annually determine, subject to approval of the Department of Finance, a fee to be paid by every water and sewer system corporation subject to the jurisdiction of the commission, so as to produce a total amount equal to that amount established in the authorized commission budget for the same year, including an appropriate reserve, to regulate water and sewer system corporations less the amount to be paid from special accounts, reimbursements, federal funds, and any other revenues, and the amount of unencumbered funds from the preceding year.

412. The commission shall establish the fee pursuant to Section 411 in accordance with the following:

(a) In its annual budget request, the commission shall specify the amount of its budget to be financed by the fee.

(b) The commission shall allocate the amount of its budget to be financed by the fee among the persons and corporations subject to

Section 411 based on the ratio that each person's or corporation's gross intrastate revenues bears to the total gross intrastate revenues for all such persons and corporations.

413. Each person and corporation subject to Section 411 shall make payment of the required fee in accordance with the following schedule:

(a) Every person and corporation with gross intrastate revenues of seven hundred fifty thousand dollars ($750,000) or less shall make payment of the fee to the commission on an annual basis on or before January 15th.

(b) Every other person and corporation not subject to subdivision (a) shall make payment of the fee on a quarterly basis between the first and 15th day of July, October, January, and April.

414. The commission may require every person and corporation subject to this article to furnish any information and report to the commission at such time as it shall specify to enable the commission to make the allocations pursuant to Section 412.

415. As used in this article:

(a) "Fee" means that monetary amount determined in accordance with this article.

(b) "Gross intrastate revenues" means those revenues from a water or sewer system corporation and its related operations subject to the jurisdiction of the commission and accounted for according to the uniform system of accounts maintained by the commission. For purposes of this article, the amount of gross intrastate revenues of a water or sewer system corporation or related business subject to the jurisdiction of the commission shall be the gross intrastate operating revenues set forth in the annual report of the corporation or related business to the commission for the preceding year.

Article 3. Temporary Provisions

441. The Director of Finance may authorize the commission to borrow not to exceed one million six hundred thousand dollars ($1,600,000) for purposes of implementing this chapter from any fund or account, including, but not limited to, the Transportation Rate Fund, the State Energy Resources Conservation and Development Special Account, and the State Energy Resources Conservation and Development Reserve Account, deemed appropriate by the Director of Finance. The commission shall repay the loan with interest to be determined in accordance with Section 16314 of the Government Code.

442. Notwithstanding Section 40031 of the Revenue and Taxation Code, the State Board of Equalization shall establish the surcharge on the consumption of electricity in this state at the maximum rate authorized by Section 40032 of the Revenue and Taxation Code.

SEC. 2. Article 8 (commencing with Section 631) is added to Chapter 3 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 8. Reimbursement for Consultant and Advisory Services

631. In addition to the requirements of Article 1 (commencing with Section 1001) of Chapter 5 and any other provisions of law, the commission shall require every electrical corporation and every gas corporation proposing to construct or modify any electric plant or gas plant at a cost in excess of one hundred million dollars ($100,000,000) to reimburse the commission for expenses of such consultants or advisory services as the commission deems necessary for either or both of the following:

(a) The processing of an application for certification of the plant.

(b) The processing of an application for approval of any rate increase reflecting the inclusion of the cost of the plant in the rates of the corporation. This subdivision applies to any plant for which the costs of construction or modification are approved for inclusion in the corporation's rates on or after January 1, 1983.

632. For purposes of Section 631, the requirements of Sections 11042, 13070, 14615, 14780, and 14782 of the Government Code do not apply to the activities of the commission required pursuant to this article.

SEC. 3. If Assembly Bill 2361 of the 1981–82 Regular Session is chaptered and adds Chapter 2.5 (commencing with Section 401) to Part 1 of Division 1 of the Public Utilities Code, and this act is chaptered after that bill adding those provisions, this act shall not become operative, or if this act is chaptered before that bill adding those provisions, this act, as of the operative date of that bill adding those provisions, is repealed.

CHAPTER 1140

An act to add Section 31301 to the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982]

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

SECTION 1. Section 31301 is added to the Vehicle Code, to read:

31301. (a) No person shall transport any explosive substance, flammable liquid, liquefied petroleum gas or poisonous gas in a tank truck, trailer, or semitrailer through the Caldecott Tunnel located on State Highway, Route 24, near the Alameda-Contra Costa County boundary, connecting Oakland with Contra Costa County in the East Bay area at any time other than between the hours of 3 a.m. to 5 a.m.

(b) The Department of Transportation may, in compliance with the requirements of Article 1 (commencing with Section 22400) of

Division 11, determine and declare a reduced speed limit, lower than the maximum speed of 55 miles per hour, found most appropriate for traffic safety between the hours of 3 a.m. and 5 a.m.

(c) Nothing in this section shall be construed as a limitation or restriction on the power of the Department of Transportation, conferred by any other provision of law, to adopt regulations with regard to the movement of vehicles, including, but not limited to, tank truck vehicles transporting any cargo specified under subdivision (a) through the Caldecott Tunnel.

If, pursuant to any such other law, the Department of Transportation adopts or amends regulations after the effective date of this section, which adopted or amended regulations govern the movement of vehicles subject to subdivision (a), then on the operative date of those regulations, this section shall no longer be operative.

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 protect the general public utilizing the Caldecott Tunnel connecting Oakland with Contra Costa County from the dangers of accidents within the tunnel involving tank trucks transporting flammable substances, it is necessary that this act take effect immediately.

CHAPTER 1141

An act to amend Sections 5328, 5328.8, 5328.15, and 5329 of, and to add Sections 4514, 4514.5, 4515, 4516, 4517, and 4518 to, the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 4514 is added to the Welfare and Institutions Code, to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1

(commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of intake, assessment, and services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the person with a developmental disability, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional employed by a facility to a professional not employed by the facility who does not have the medical responsibility for the care of a person with a developmental disability.

(b) When the person with a developmental disability, with the approval of the physician, licensed psychologist, or social worker with a masters degree in social work, who is in charge of the person, designates individuals to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(c) To the extent necessary for a claim, or for a claim to be made on behalf of a person with a developmental disability for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, ward, or conservatee, and his or her parent, guardian, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. Such rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons with developmental disabilities who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services

to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or such person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the person with a developmental disability who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the person, may release all information and records relating to the person except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(k) Upon written agreement by a person with a developmental disability previously confined in or otherwise treated by a facility, the professional in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the

probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state hospital for the developmentally disabled the State Department of Developmental Services, the physician in charge of the patient, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician in charge of the state hospital resident, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident which is not related to the diagnosis and treatment of the resident's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, as necessary to the performance of their duties to inspect, license, and investigate health facilities and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or a criminal, civil, or adminstrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services decides that no

further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of such board and the records are relevant to such violation. Such information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the physician in charge of the person with a developmental disability, or the professional in charge of the facility or his or her designee, when he or she has probable cause to believe that a person with a developmental disability while hospitalized has committed, or has been the victim of murder, manslaughter, mayhem, kidnapping, robbery, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in Section 12020 of the Penal Code.

This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her voluntary or involuntary admission, commitment, or treatment.

This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code.

(q) To the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

SEC. 2. Section 4514.5 is added to the Welfare and Institutions Code, to read:

4514.5. Upon request of a family member of a resident of a state hospital, community care facility, or health facility, or other person designated by the resident, the facility shall give such family member or the designee notification of the resident's presence in the facility, the transfer, the diagnosis, the prognosis, the medications prescribed, the side effects of medications prescribed, if any, the progress of the resident, and the serious illness of the resident, if, after notification of the resident that such information is requested, the resident authorizes such disclosure. If, when initially informed of the request for notification, the resident is unable to authorize the release of such information, notation of the attempt shall be made into the resident's

treatment record, and daily efforts shall be made to secure the resident's consent or refusal of such authorization. However, if a request for information is made by the spouse, parent, child, or sibling of the resident and the resident is unable to authorize the release of such information, such requester shall be given notification of the resident's presence in the facility, except to the extent prohibited by federal law. Upon request of a family member of a resident or the designee, the facility shall notify such family member or designee of the release or death of the resident. Nothing in this section shall be construed to require photocopying of the resident's medical records in order to satisfy its provisions.

SEC. 3. Section 4515 is added to the Welfare and Institutions Code, to read:

4515. Signed consent forms by a person with a developmental disability or, where appropriate, the parent, guardian, or conservator, for release of any information to which such person consents under the provision of Sections 11878 or 11879 of the Health and Safety Code, or subdivision (a) or (d) of Section 4514 shall be obtained for each separate use with the use specified, the information to be released, the name of the agency or individual to whom information will be released indicated on the form and the name of the responsible individual who has authorization to release information specified. Any use of this form shall be noted in the file of the person with developmental disabilities. Persons who sign consent forms shall be given a copy of the consent forms signed.

SEC. 4. Section 4516 is added to the Welfare and Institutions Code, to read:

4516. When any disclosure of information or records is made as authorized by the provisions of subdivision (a), (d), or (q) of Section 4514 or Section 4514.5, the physician in charge of the person with a developmental disability or the professional in charge of the facility shall promptly cause to be entered into the person's medical record the date and circumstances under which such disclosure was made, the names and relationships to the person, if any, of individuals or agencies to whom such disclosure was made, and the specific information disclosed.

SEC. 5. Section 4517 is added to the Welfare and Institutions Code, to read:

4517. Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers and standards set by the Director of Developmental Services.

SEC. 6. Section 4518 is added to the Welfare and Institutions Code, to read:

4518. Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him or her in violation of the provisions of this chapter, or of Chapter 1 (commencing with Section 11860) of Part 3 of Division 10.5 of the Health and Safety Code, for the greater of

the following amounts:

(1) Five hundred dollars ($500).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff.

Any person may, in accordance with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of the provisions of this chapter, and may in the same action seek damages as provided in this section.

It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages.

SEC. 7. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a masters degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health

designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. Such rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge

of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke such authorization at any time, either in writing or by oral declaration to an approved advocate.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 8. Section 5328.8 of the Welfare and Institutions Code is amended to read:

5328.8. The State Department of Mental Health, the physician in charge of the patient, or the professional person in charge of the facility or his or her designee, shall, except as otherwise provided in this section, release information obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to the coroner when a patient dies from any cause, natural or otherwise, while hospitalized in a state mental hospital. The State Department of Mental Health, the physician in charge of the patient, or the professional person in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the patient and health professional personnel of the hospital relating to the personal life of the patient which is not related to the diagnosis and treatment of the patient's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

SEC. 9. Section 5328.15 of the Welfare and Institutions Code is amended to read:

5328.15. All information and records obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to either voluntary or involuntary recipients of services shall be confidential. Information and records may be disclosed, however, notwithstanding any other provision of law, as follows:

(a) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, as necessary to the performance of their duties to inspect, license, and investigate health facilities and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services shall not contain the name of the patient.

(b) To any board which licenses and certifies professionals in the fields of mental health pursuant to state law, when the Director of Mental Health has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of that board and the records are relevant to the violation. This information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the patient.

SEC. 10. Section 5329 of the Welfare and Institutions Code is amended to read:

5329. Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards set by the Director of Mental Health.

CHAPTER 1142

An act to add Section 14678.5 to the Government Code, relating to parking facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 14678.5 is added to the Government Code, to read:

14678.5. (a) Notwithstanding the provisions of Section 14678, the Department of General Services may enter into agreements with the federal government, including the Urban Mass Transportation Administration, and local agencies to implement demonstration employee mass transportation programs under which the revenues of the project in the form of parking fees are used to repay the costs of the program. For those purposes, the revenue from parking fees generated by the parking facility or facilities in the project shall be allocated to the project pursuant to the agreement. This subdivision shall apply only to the Van Nuys State Office Building.

(b) The director may, for a period not longer than the demonstration employee mass transportation program implemented pursuant to subdivision (a), allocate parking fees from employees at facilities leased by the state in the Van Nuys area and use those parking fees collected to finance the demonstration program implemented in that area.

(c) The revenue from parking fees from facilities leased by the state in the Van Nuys area is appropriated without regard to fiscal years to the department for allocation to the project described in subdivision (a) for a period not longer than the demonstration program implemented pursuant to that subdivision.

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:

Federal funding for a demonstration employee mass transportation program is presently available for the Van Nuys State Office Building parking facility. In order to provide parking for this facility under that funding program and to prevent adverse environmental impact by promotion of use of car pools, van pools, and mass transit, it is necessary that this act take effect immediately.

CHAPTER 1143

An act to amend Section 39246 of, and to repeal and add Section 52308 of, the Education Code, relating to school buildings.

[Approved by Governor September 17, 1982 Filed with Secretary of State September 20, 1982.]

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

SECTION 1 Notwithstanding Section 39227 of the Education Code, the governing board of the Merced River School District may use until June 30, 1982, an existing building known as Beck Hall, located on or near Hopeton School, 2241 West Turlock Road, Snelling, California, for purposes of speech therapy and psychologist visitations for pupils requiring those services. During the period of use authorized by this section, the building shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code.

SEC. 2. Notwithstanding Section 39227 of the Education Code, the governing board of the Vallecito Union School District may continue to use until June 30, 1984, five portable buildings currently in use as classroom facilities. During the period of use authorized by this section, the buildings shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code.

SEC. 3. Notwithstanding Section 39227 of the Education Code, the governing board of the Ferndale Elementary School District may use until June 30, 1984, an existing building at the Ferndale Elementary School which is a wood frame structure and for which the district is seeking funds for repair. During the period of use authorized by this section, the building shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code.

SEC. 4. Notwithstanding Section 39227 of the Education Code, the governing boards of the Merced City School District, the Winton School District, the Atwater Elementary School District, and the McSwain Union School District may continue to use until the removal of the current freeze on capital outlay allocations by the Office of Local Assistance Funds and the completion of special education facilities supervised by the Office of the Merced County Superintendent of Schools, or until June 30, 1987, whichever occurs first, seven portable buildings currently in use as classroom facilities for special education pupils. During the period of use authorized by this section, the buildings shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code.

SEC. 5. Notwithstanding Section 81178 of the Education Code,

the governing board of the Mendocino Community College District may continue to use until the completion of the permanent campus of Mendocino College, or until June 30, 1984, whichever occurs first, existing buildings leased by the district located at 720 North State Street, Ukiah, California; 205 North Bush Street, Ukiah, California; 151 Laws Avenue, Ukiah, California; 798 North State Street, Ukiah, California; 810 North State Street, Ukiah, California; 1060 North State Street, Ukiah, California; 203 South Main Street, Ukiah, California; 525 North Main Street, Lakeport, California; and 11 Marin Street, Willits, California. During the period of use authorized by this section, the buildings shall not be subject to Article 7 (commencing with Section 81130) or Article 8 (commencing with Section 81160) of Chapter 1 of Part 49 of the Education Code.

SEC. 6. Notwithstanding Section 81178 of the Education Code, the governing board of the Lake Tahoe Community College District may continue to use until June 30, 1985, existing buildings leased by the district located at 970 Lodi Avenue and 2659 Lake Tahoe Boulevard, South Lake Tahoe, California. During the period of use authorized by this section, the buildings shall not be subject to Article 7 (commencing with Section 81130) or Article 8 (commencing with Section 81160) of Chapter 1 of Part 49 of the Education Code.

SEC. 7. Because of the unique circumstances concerning the enrollment increases at the Merced River School District and the Vallecito Union School District, the unique circumstances concerning the school facilities at the Mendocino Community College District and the Lake Tahoe Community College District, the unique circumstances concerning the school facilities at the Ferndale Elementary School District, and the unique circumstances concerning the freeze on capital outlay funding which would have otherwise been available for the construction of special education facilities for use by the Merced City School District, the Winton School District, the Atwater Elementary School District, and the McSwain Union School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

SEC. 8. Section 39246 of the Education Code is amended to read:

39246. (a) The governing board of any school district may lease relocatable structures or permanent school buildings for a term extending to the expected duration of use by the school district, but not to exceed 10 years.

(b) Notwithstanding subdivision (a), the governing board of any school district which has entered into a joint powers agreement pursuant to the provisions of Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the purpose of leasing relocatable structures to participating school districts, may lease the relocatable structures for a term extending to the expected duration of use by the school district, but not to exceed 15 years.

(c) Any lease agreement or contract entered into pursuant to this section shall be initiated by resolution authorizing such action and

prescribing the terms thereof adopted by vote of a majority of the members of the governing board.

SEC. 9. Section 52308 of the Education Code is repealed.

SEC. 10. Section 52308 is added to the Education Code, to read:

52308. A regional occupational center or program may lease buildings of not more than one story or equipment for a term not to exceed 10 years, subject to an extension for a period not to exceed 10 years, without complying with any other provision of this code relating to the lease of school buildings or equipment.

CHAPTER 1144

An act to add Chapter 21.5 (commencing with Section 7520) to Division 7 of Title 1 of the Government Code, relating to housing.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Chapter 21.5 (commencing with Section 7520) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 21.5. DEPOSITS OF PUBLIC PENSION AND RETIREMENT FUNDS

7520. Notwithstanding any other provision of law, any public pension fund or retirement system of this state or local agency of this state may contract with a savings and loan association doing business in this state under terms by which the association shall receive deposits of money from the fund or system for a term of 12 months or longer upon the association's agreement to offer loans for the construction of new residential structures and related improvements, including apartment buildings or other multiple-unit structures, in an amount equal to the amount of the deposit, at a rate of interest equal to the rate of interest on the deposit plus 200 basis points. The savings and loan association may require additionally an origination fee not exceeding the amount required by the savings and loan association for comparable loans not subject to this section, but in no case exceeding 5 percent of the loan amount. This fee shall not be deemed to include any expenses of the association directly related to approving, processing, or recording loans made pursuant to this section. Reasonable charges to cover such expenses may be imposed in connection with such loans.

Nothing in this section shall authorize a pension fund or retirement system to make deposits at less than the otherwise applicable rate of interest nor prohibit the fund of system from depositing funds with other financial institutions or under other

conditions.

CHAPTER 1145

An act to amend Section 25522 of the Public Resources Code, relating to energy resources.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 25522 of the Public Resources Code is amended to read:

25522. Except as provided in subdivision (c) of Section 25520.5, within 18 months of the filing of an application for certification, or within 12 months if it is filed within one year of the commission's approval of the notice of intent, or at such later time as is mutually agreed by the commission and the applicant, the commission shall issue a written decision as to such application.

The commission shall determine, within 45 days after it receives the application, whether the application is complete. If the commission determines that the application is complete, the application shall be deemed filed for purposes of this section on the date that this determination is made. If the commission determines that the application is incomplete, the commission shall specify in writing those parts of the application which are incomplete and shall indicate the manner in which it can be made complete. The application shall be deemed filed on the date when the commission receives the additional data which the commission determines is sufficient to make the application complete.

CHAPTER 1146

An act to add Section 798.22 to the Civil Code, relating to mobilehome parks.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 798.22 is added to the Civil Code, to read:

798.22. (a) In any new mobilehome park that is developed after January 1, 1982, mobilehome spaces shall not be rented for the accommodation of recreational vehicles as defined by Section 799.24 unless the mobilehome park has a specifically designated area within

the park for recreational vehicles, which is separate and apart from the area designated for mobilehomes. Recreational vehicles may be located only in the specifically designated area.

(b) Any new mobilehome park that is developed after January 1, 1982, is not subject to the provisions of this section until 75 percent of the spaces have been rented for the first time.

CHAPTER 1147

An act to add Section 53076 to the Government Code, relating to tanks.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 53076 is added to the Government Code, to read:

53076. No local agency shall deny a permit to repair an underground steel storage tank containing a motor vehicle fuel product not under pressure which has developed a leak due to corrosion of the interior of the tank solely on the basis that the tank is to be repaired by an interior-coating process. However, nothing in this section shall prevent a local agency from prohibiting the use of a storage tank repaired by an interior-coating process if the tank fails to meet any additional requirements for underground storage tanks imposed by the local agency.

CHAPTER 1148

An act to amend Sections 45060 and 87833 of, and to add Sections 45061 and 87834 to, the Education Code, relating to public employer-employee relations.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 45060 of the Education Code is amended to read:

45060. Except as provided in Section 45061, the governing board of each school district when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for

the purpose of paying the dues of the employee for membership in any local professional organization or in any statewide professional organization, or in any other professional organization affiliated or otherwise connected with a statewide professional organization which authorizes such statewide organization to receive membership dues on its behalf and for the purpose of paying his pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district of such dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period. The governing board shall each month draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the dues deductions made with respect to such organization during the month. The district shall retain and deposit in the general fund of the district the total amounts deducted from the employee's salary payment for the purpose of paying the employee's pro rata share of the costs incurred by the district in making the dues deductions provided for in this section. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making such deduction.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is a change in the amount required for such payment to the organization, the employee organization shall provide the employee with adequate and necessary data on such change at a time sufficiently prior to the effective date of the change to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the change at a time sufficiently prior to the effective date of the change to allow the employer an opportunity to make the necessary adjustments and with a copy of the notification of the change which has been sent to all concerned employees.

The governing board shall not require the completion of a new deduction authorization when a dues change has been effected or at any other time without the express approval of the concerned employee organization.

SEC. 1.3. Section 45060 of the Education Code is amended to read:

45060. Except as provided in Section 45061, the governing board of each school district, when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying the dues of the employee for membership in any local professional organization or in any statewide professional organization, or in any other professional organization affiliated or

otherwise connected with a statewide professional organization which authorizes the statewide organization to receive membership dues on its behalf and for the purpose of paying his or her pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district of the dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period.

Unless otherwise provided in an agreement negotiated pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the governing board shall, no later than the 10th day of each pay period for certificated employees, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the dues deductions made with respect to that organization for the previous pay period and shall transmit the total amount to that organization no later than the 15th day of each pay period for certificated employees. When timely transmittal of dues payments by a county is necessary for a school district to comply with the provisions of this section, the county shall act in a timely manner. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making the deduction.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is a change in the amount required for the payment to the organization, the employee organization shall provide the employee with adequate and necessary data on the change at a time sufficiently prior to the effective date of the change to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the change at a time sufficiently prior to the effective date of the change to allow the employer an opportunity to make the necessary adjustments and with a copy of the notification of the change which has been sent to all concerned employees.

The governing board shall not require the completion of a new deduction authorization when a dues change has been effected or at any other time without the express approval of the concerned employee organization.

SEC. 1.5. Section 45060 of the Education Code is amended to read:

45060. Except as provided in Sections 45061 and 45062, the governing board of each school district, when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying the dues of the employee for membership in any local professional organization or

in any statewide professional organization, or in any other professional organization affiliated or otherwise connected with a statewide professional organization which authorizes the statewide organization to receive membership dues on its behalf and for the purpose of paying his or her pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district of the dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period. The governing board shall each month draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the dues deductions made with respect to the organization during the month. The district shall retain and deposit in the general fund of the district the total amounts deducted from the employee's salary payment for the purpose of paying the employee's pro rata share of the costs incurred by the district in making the dues deductions provided for in this section. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making the deduction.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is a change in the amount required for the payment to the organization, the employee organization shall provide the employee with adequate and necessary data on the change at a time sufficiently prior to the effective date of the change to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the change at a time sufficiently prior to the effective date of the change to allow the employer an opportunity to make the necessary adjustments and with a copy of the notification of the change which has been sent to all concerned employees.

The governing board shall not require the completion of a new deduction authorization when a dues change has been effected or at any other time without the express approval of the concerned employee organization.

SEC. 1.7. Section 45060 of the Education Code is amended to read:

45060. Except as provided in Sections 45061 and 45062, the governing board of each school district, when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying the dues of the employee for membership in any local professional organization or in any statewide professional organization, or in any other professional organization affiliated or otherwise connected with a

statewide professional organization which authorizes the statewide organization to receive membership dues on its behalf and for the purpose of paying his or her pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district of the dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period.

Unless otherwise provided in an agreement negotiated pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the governing board shall, no later than the 10th day of each pay period for certificated employees, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the dues deductions made with respect to that organization for the previous pay period and shall transmit the total amount to that organization no later than the 15th day of each pay period for certificated employees. When timely transmittal of dues payments by a county is necessary for a school district to comply with the provisions of this section, the county shall act in a timely manner. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making the deduction.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is a change in the amount required for the payment to the organization, the employee organization shall provide the employee with adequate and necessary data on the change at a time sufficiently prior to the effective date of the change to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the change at a time sufficiently prior to the effective date of the change to allow the employer an opportunity to make the necessary adjustments and with a copy of the notification of the change which has been sent to all concerned employees.

The governing board shall not require the completion of a new deduction authorization when a dues change has been effected or at any other time without the express approval of the concerned employee organization.

SEC. 2. Section 45061 is added to the Education Code, to read:

45061. The governing board of each school district when drawing an order for the salary or wage payment due to a certificated employee of the district shall, with or without charge, reduce the order for the payment of service fees to the certified or recognized organization as required by an organizational security arrangement between the exclusive representative and a public school employer as provided under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code. However, the

organizational security arrangement shall provide that any employee may pay service fees directly to the certified or recognized employee organization in lieu of having such service fees deducted from the salary or wage order.

If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of service fees to the certificated or recognized organization, the board shall deduct from the amount transmitted to the organization on whose account the payments were deducted the actual costs, if any, of making the deduction. No charge shall exceed the actual cost to the district of the deduction. These actual costs shall be determined by the board and shall include startup and ongoing costs.

SEC. 3. Section 87833 of the Education Code is amended to read:

87833. Except as provided in Section 87834, the governing board of each community college district when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying the dues of the employee for membership in any local professional organization or in any statewide professional organization, or in any other professional organization affiliated or otherwise connected with a statewide professional organization which authorizes such statewide organization to receive membership dues on its behalf and for the purpose of paying his pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district for such dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period. The governing board shall each month draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the dues deductions made with respect to such organization during the month. The district shall retain and deposit in the general fund of the district the total amounts deducted from the employee's salary payment for the purpose of paying the employee's pro rata share of the costs incurred by the district in making the dues deductions provided for in this section. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making such deduction.

SEC. 4. Section 87834 is added to the Education Code, to read:

87834. The governing board of each community college district when drawing an order for the salary or wage payment due to a certificated employee of the district shall, with or without charge, reduce the order for the payment of service fees to the certified or recognized organization as required in an organizational security

arrangement between the exclusive representative and a public school employer as provided under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code. However, the organizational security arrangement shall provide that any employee may pay service fees directly to the certified or recognized employee organization in lieu of having the service fees deducted from the salary or wage order.

If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of service fees to the certificated or recognized organization, the board shall deduct from the amount transmitted to the organization on whose account the payments were deducted the actual costs, if any, of making the deduction. No charge shall exceed the actual cost to the district of the deduction. These actual costs shall be determined by the board and shall include startup and ongoing costs.

SEC. 5. It is the intent of the Legislature that if this bill and Assembly Bill 2467 or Assembly Bill 2967, or both, are chaptered and become effective January 1, 1983, each of the bills amend Section 45060 of the Education Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill 2467 are both chaptered and become effective January 1, 1983, both bills amend Section 45060 of the Education Code, but Assembly Bill 2967 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 2467, the amendments proposed by both bills shall be given effect and incorporated in Section 45060 in the form set forth in Section 1.3 of this act. Therefore, if this bill and Assembly Bill 2467 are both chaptered and become effective January 1, 1983, both bills amend Section 45060, this bill is chaptered after Assembly Bill 2467, and Assembly Bill 2967 is not chaptered or as chaptered does not amend that section, Section 1.3 of this act shall be operative and Sections 1, 1.5, and 1.7 of this act shall not become operative.

(2) If this bill and Assembly Bill 2967 are both chaptered and become effective January 1, 1983, both bills amend Section 45060 of the Education Code, but Assembly Bill 2467 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 2967, the amendments proposed by both bills shall be given effect and incorporated in Section 45060 in the form set forth in Section 1.5 of this act. Therefore, if this bill and Assembly Bill 2967 are both chaptered and become effective January 1, 1983, both bills amend Section 45060, this bill is chaptered after Assembly Bill 2967, and Assembly Bill 2467 is not chaptered or as chaptered does not amend that section, Section 1.5 of this act shall be operative and Sections 1, 1.3, and 1.7 of this act shall not become operative.

(3) If this bill and Assembly Bill 2467 and Assembly Bill 2967 are all chaptered and become effective January 1, 1983, all three bills amend Section 45060 of the Education Code, and this bill is

chaptered after Assembly Bill 2467 and Assembly Bill 2967, the amendments proposed by all three bills shall be given effect and incorporated in Section 45060 in the form set forth in Section 1.7 of this act. Therefore, if this bill and Assembly Bill 2467 and Assembly Bill 2967 are all chaptered and become effective January 1, 1983, all three bills amend Section 45060 of the Education Code, and this bill is chaptered after Assembly Bill 2467 and Assembly Bill 2967, Section 1.7 of this act shall be operative and Sections 1, 1.3, and 1.5 of this act shall not become operative.

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.

CHAPTER 1149

An act to add Sections 61601.10 and 61601.11 to the Government Code, relating to community services districts.

[Approved by Governor September 17, 1982 Filed with Secretary of State September 20, 1982]

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

SECTION 1. Section 61601.10 is added to the Government Code, to read:

61601.10. In addition to the powers which may be exercised pursuant to Section 61600, whenever the Board of Directors of the El Dorado Hills Community Services District determines by resolution, entered in the minutes, that it is feasible, economically sound, and in the public interest, and if a majority of the voters voting on the proposition vote in favor of the adoption of the additional purpose pursuant to Section 61601, the district may enforce the covenants, conditions, and restrictions adopted for each tract within the boundaries of the district, and assume the duties of the architectural control committee for each tract within the boundaries of the district and for other tracts as may be annexed from time to time, for the purpose of maintaining uniform standards of development within the district as adopted in the covenants, conditions, and restrictions. However, the district shall exercise the duties of an architectural control committee for any tract only to the extent authorized by the covenants, conditions, and restrictions applicable to the tract.

The power to carry on that activity may be divested in the same manner as the power was acquired.

For the purposes of this section, "tract" means any parcel of land

for which the county has authorized development.

SEC. 2. Section 61601.11 is added to the Government Code, to read:

61601.11. In addition to the powers which may be exercised pursuant to Section 61600, whenever the Board of Directors of the El Dorado Hills Community Services District determines by resolution, entered in the minutes, that it is feasible, economically sound, and in the public interest, and if a majority of the voters voting on the proposition vote in favor of the adoption of the additional purpose pursuant to Section 61601, the district may acquire, construct, own, operate, control or use, within or without or partly within and partly without the district, works for supplying its inhabitants with electricity, and may purchase and distribute any such service from any other district, person, or company. However, regarding any works or facilities of any privately owned public utility that is doing business in El Dorado County on January 1, 1983, the district shall not acquire, except by mutual agreement between the district and the utility, any of these works or facilities for the generation of electric power, or take possession of any of these works or facilities prior to judgment in an eminent domain proceeding. For these purposes, the district shall have all of the power and authority to issue revenue bonds, pursuant to Section 61613.1, which authorizes the issuance of revenue bonds for other types of revenue producing enterprises. Whenever any of such works, or the electrical energy made available thereby, is not used or employed to its fullest capacity for the benefit of the district or its inhabitants, the district may employ such surplus works or energy to supply service outside the boundaries of the district upon such terms and conditions as the board determines to be for the best interests of the district.

SEC. 3. The Legislature finds and declares that the El Dorado Hills Community Services District has a special need for the power to enforce the covenants, conditions, and restrictions adopted for each tract within the boundaries of the district and to assume the duties of the architectural control committee for each tract within the boundaries of the district and for such other tracts as may be annexed from time to time, for the purpose of maintaining uniform standards of development within the district as adopted in such covenants, conditions, and restrictions. It is, therefore, hereby declared that a general law cannot be made applicable and that the addition of Section 61601.10 to the Government Code is necessary for the solution of the problems existing in the El Dorado Hills Community Services District.

SEC. 4. The Legislature finds and declares that the El Dorado Hills Community Services District has a special need to exercise powers relating to providing electricity within the area of the district. The cost of electrical energy is increasing greatly. There is no natural gas available to the area, forcing reliance upon electrical energy for all household utility needs. Sources of electric power may be available to the area within the district that are unique and

peculiar to the area, and which would not be available to community services districts generally. Formation of a new district with such power may not be possible in view of the existence within the territory of an irrigation district, a county water district, and the El Dorado Hills Community Services District. The Legislature further finds and declares that this problem is not common to all districts formed under the Community Services District Law, Division 3 (commencing with Section 61000) of Title 6 of the Government Code. It is, therefore, hereby declared that a general law cannot be made applicable and that the enactment of Section 61601.11 of the Government Code as a special law, is necessary for the solution of problems existing in the El Dorado Hills Community Services District.

SEC. 5. 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 1150

An act to add Chapter 6 (commencing with Section 801) to Part 1 of Division 1 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Chapter 6 (commencing with Section 801) is added to Part 1 of Division 1 of the Food and Agricultural Code, to read:

CHAPTER 6. STATE AGRICULTURAL POLICY

Article 1. General Provisions

801. This chapter shall be known and may be cited as the Thurman Agricultural Policy Act.

802. The Legislature finds and declares the following:

(a) Agriculture is the number one industry in California, which is the leading agricultural state in the country.

(b) Although California's cultivated land accounts for approximately 3 percent of the country's entire supply of farmland, the state has historically produced about 10 percent of the farm cash receipts in the United States.

(c) California leads the nation in the production of approximately

50 different crops and livestock products.

(d) The diversity of the state's agriculture is truly impressive, for over 250 different commodities are grown here.

(e) Family owned farms produce most of the food and fiber produced by the California agricultural industry.

803. The Legislature further finds and declares that, regardless of the findings in Section 802, this state does not presently have a formal agricultural policy. That policy should guide decisionmaking by the Legislature so that the needs of the agricultural industry can be considered for the benefit of the residents of this state, each of whom is directly and indirectly affected by California agriculture.

Article 2. Agricultural Policy

821. As part of promoting and protecting the agricultural industry of the state and for the protection of the public health, safety, and welfare, the Legislature shall provide for a continuing sound and healthy agriculture in California, and shall encourage a productive and profitable agriculture, by reviewing the impact of actions taken on the following factors:

(a) Productive agricultural land.

(b) Agricultural water supplies.

(c) Agricultural energy resources.

(d) Pest control and pest exclusion, detection, and eradication activities.

(e) Agricultural labor.

(f) Agricultural production tools, including, but not limited to, fertilizers and implements of husbandry.

(g) Marketing agricultural products in the domestic and foreign markets.

(h) Agricultural research, education, and agricultural extension programs.

(i) Agricultural transportation and distribution systems.

(j) Agricultural financing.

(k) Family owned farms.

(*l*) Activities of county agricultural commissioners.

(m) Agricultural exhibits at state-supported fairs.

CHAPTER 1151

An act relating to the disposition of real property owned by the state, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Notwithstanding any provisions of law to the contrary, the Director of General Services, with the approval of the Director of Corrections and the State Public Works Board, may sell or exchange at fair market value, and upon those terms and conditions and with reservations and exceptions which in his or her opinion may be in the best interest of the state, approximately 320 acres of land, located in the south half of Section 35, Township 18 South, Range 1 West, S.B.B.&M., in the County of San Diego.

Prior to the sale or exchange of the real property specified in this section, the director shall offer the right of first refusal to 10 acres of that property to any public entity leasing that real property.

SEC. 2. Any cost or expense incurred in the disposition of this property may be reimbursed from the proceeds of the disposition. The disposition shall be exempt from the provisions of Sections 11011 to 11011.9, inclusive, 54220 to 54225, inclusive, and 54235 to 54239, inclusive, of the Government Code, and Sections 21000 to 21174, inclusive, of the Public Resources Code.

SEC. 3. If the property is sold, the Director of General Services shall accept and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, together with the right to prospect for, mine, and remove the deposits. The rights to prospect for, mine, and remove the deposits shall be limited to those areas of the property conveyed which the director determines to be reasonably necessary for the removal of the resources and deposits.

SEC. 4. Any additional funds realized over and above the land exchange and cost related thereto shall revert to the Department of Corrections to be used for additional site acquisition, architectural planning, schematics, working drawings, and construction.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution, and shall go into immediate effect. The facts constituting the necessity are:

The Department of Correction's capacity to house prison inmates has been exceeded. To avoid or minimize serious overcrowding, and to rectify unsafe conditions in existing state prisons, it is necessary that this act take effect immediately.

CHAPTER 1152

An act to add and repeal Section 22810.1 of the Government Code, relating to public employees' health benefits, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 22810.1 is added to the Government Code, to read:

22810.1. Notwithstanding any other provision of law, a state miscellaneous member who retired for disability may enroll in an approved health benefit plan if the board finds all of the following:

(a) The retired member applies for such enrollment within 15 days of notification by the board of eligibility.

(b) The retired member enrolled in a rehabilitation program which ended more than 120 days after separation from state service.

(c) The retired member was enrolled in a health benefit plan at the time of separation from active employment.

This section shall remain in effect only until February 1, 1983, and, as of such date is repealed, unless a later enacted statute, which is chaptered before February 1, 1983, deletes or extends such date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to correct an inequity resulting in the loss of health coverage for annuitants of the Public Employees' Retirement System currently disabled and retired from state service, it is necessary that this act take immediate effect.

CHAPTER 1153

An act to amend Sections 9890.31 and 9924 of the Business and Professions Code, relating to employment agencies.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 9890.31 of the Business and Professions Code is amended to read:

9890.31. (a) With the approval of the director, the chief may adopt rules and regulations necessary for the orderly administration of this chapter. All rules and regulations shall become effective not earlier than 30 days after approval by the director, and only upon compliance 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.

(b) On or before July 1, 1983, the bureau shall adopt and place into effect written operating guidelines for complaint-handling

procedures, which shall include, but not be limited to, the following factors:

(1) Determination that the complaint is within the jurisdiction of the bureau and the licensing act.

(2) All complaints shall be submitted to the bureau in writing.

(3) The bureau shall contact all employers, applicants and agencies involved in a complaint, and such contacts shall be summarized in writing by the bureau employee making such contact.

(4) The disposition of a complaint shall be transmitted in writing to the employers, applicants and agencies involved.

(5) An annual notice to licensees of disciplinary procedures.

The guidelines shall be adopted following a public hearing conducted by the California Advisory Board to the Bureau of Employment Agencies, for which the public and the industry shall be given notice and invited to testify.

SEC. 2. Section 9924 of the Business and Professions Code is amended to read:

9924. (a) With the approval of the director, the chief may adopt rules and regulations necessary for the administration of this chapter and declaring the policy of the bureau.

(b) On or before July 1, 1983, the bureau shall adopt and place into effect written operating guidelines for complaint-handling procedures, which shall include, but not be limited to, the following factors:

(1) Determination that the complaint is within the jurisdiction of the bureau and the licensing act.

(2) All complaints shall be submitted to the bureau in writing.

(3) The bureau shall contact all employers, applicants and agencies involved in a complaint, and such contacts shall be summarized in writing by the bureau employee making such contact.

(4) The disposition of a complaint shall be transmitted in writing to the employers, applicants and agencies involved.

(5) An annual notice to licensees of disciplinary procedures.

The guidelines shall be adopted following a public hearing conducted by the California Advisory Board to the Bureau of Employment Agencies, for which the public and the industry shall be given notice and invited to testify.

CHAPTER 1154

An act to add Section 21340 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 21340 is added to the Government Code, to read:

21340. Notwithstanding any provision of this part, a retired member who chose no optional settlement or optional settlement one at retirement may elect to have the actuarial equivalent, as of the date of the election, of the allowance payable for the remainder of his or her lifetime applied to a lesser allowance during his or her remaining lifetime under one of the optional settlements specified in this article and name his or her spouse as beneficiary. For purposes of this section, "spouse" means a spouse who was married to the retired member after January 1, 1980, and at least one year prior to the designation as beneficiary under this section. The election provided by this section is irrevocable and shall be made within one year after the person who is designated as beneficiary became a spouse, as defined by this section or before July 1, 1983.

CHAPTER 1155

An act to amend Sections 10600, 10601, and 10602 of, and to add Sections 10605 and 10606 to, the Government Code, relating to the Joint Legislative Retirement Committee.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 10600 of the Government Code is amended to read:

10600. The Legislature finds that the retirement of officers and employees of the state, school districts, and many cities, counties, and public jurisdictions in the state, is provided under several independently administered and highly complex and technical statutes, and that development and change in such systems are interrelated and have important long-range implications both with respect to cost and to the rights of public employees. The Legislature recognizes the need of coordination of such change and development and for continuing study and analysis of such systems and legislation affecting them. The Legislature also recognizes the need to recommend legislation to change employers' and employees' contributions through increased portfolio yield.

Therefore, it is the desire of the Legislature to provide for such continuing study and analysis by a joint legislative committee.

SEC. 2. Section 10601 of the Government Code is amended to

read:

10601. The Joint Legislative Retirement Committee is hereby created. The committee shall study and review the benefits, programs, actuarial condition, practices, investments and procedures of, and all legislation relating to the retirement systems for public officers and employees in this state and the trends and developments in the field of retirement, and make reports and recommendations thereon to the Legislature and to the houses thereof. The committee has a continuing existence and may meet, act, and conduct its business at any place within this state during the sessions of the Legislature or any recess thereof, and in the interim period between sessions. A copy of each bill which affects any public employee retirement system shall be transmitted to the committee and the committee shall transmit an analysis, including an actuarial opinion if appropriate, to the policy committee.

SEC. 3. Section 10602 of the Government Code is amended to read:

10602. The committee shall consist of a member from each of the following Senate committees: Banking and Commerce, Industrial Relations, Local Government, Public Employment and Retirement, and Revenue and Taxation and a member from each of the following Assembly committees: Finance, Insurance and Commerce, Labor and Employment, Local Government, Public Employees and Retirement, and Revenue and Taxation. The members shall be selected in the manner provided for in the Joint Rules of the Senate and Assembly. The committee shall elect its own chairman. Vacancies occurring in the membership of the committee between general sessions of the Legislature shall be filled in the manner provided for in the Joint Rules of the Senate and Assembly. A vacancy shall be deemed to exist as to any member of the committee whose term is expiring whenever such member is not reelected at the General Election.

SEC. 4. Section 10605 is added to the Government Code, to read:

10605. The committee shall establish a board of experts. The board of experts shall include: the Controller, the chairpersons of the investment committees of the Board of Administration of the Public Employees' Retirement System and the Teachers' Retirement Board, the presidents of those boards, the executive officers of those systems, the chiefs of investment of those systems, the chief actuaries of those systems, the pension managers and treasurers of two corporations, a manager of a city pension fund, and a manager of a county pension fund.

The committee shall retain as a consultant to the board of experts an independent actuary.

The board of experts shall be reimbursed for its actual and necessary expenses.

SEC. 5. Section 10606 is added to the Government Code, to read:

10606. There shall be held during the last week of March of each year a joint meeting of the committee, the board of experts, the

Board of Administration of the Public Employees' Retirement System, the Teachers' Retirement Board, the executive officers of those systems, and the State Treasurer, to review the performance of the systems. The annual reports of those systems and the financial reports and reports of operations shall be presented at the meeting.

At the meeting, the State Treasurer shall present a review of the investment practices of the Public Employees' Retirement System and the State Teachers' Retirement System and shall transmit a copy of the report to the committee.

CHAPTER 1156

An act to add Section 18951.5 to the Government Code, relating to state civil service.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982]

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

SECTION 1 Section 18951.5 is added to the Government Code, to read:

18951.5. In an examination held on an open, nonpromotional basis under Section 18950, a competitor who has served at least one full year in, or who is a graduate of, the California Conservation Corps, and who attains the passing mark established for the examination, shall have three career credits added to his or her score. Eligibility for career credits pursuant to this section shall expire 18 months after graduation from the California Conservation Corps.

CHAPTER 1157

An act to amend Section 1048 of the Military and Veterans Code, to amend Section 21191 of the Public Resources Code, and to amend Section 5106 of the Vehicle Code, relating to veterans, and making an appropriation therefor.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 1048 of the Military and Veterans Code is amended to read:

1048. The post fund shall include any profits from operations of the Veterans' Home Exchange and post fund operations, revenue derived from the issuance of prisoner of war special license plates

pursuant to Section 5101.5 of the Vehicle Code, all donations to the fund, and any other moneys or property described in this chapter, except that the moneys and properties received by the home from estate assets located outside the home in excess of one hundred thousand dollars ($100,000) in any one calendar year shall be paid into the General Fund.

SEC. 2. Section 21191 of the Public Resources Code is amended to read:

21191. (a) The California Environmental License Plate Fund which supersedes the California Environmental Protection Program Fund is continued in existence in the State Treasury, consisting of the moneys deposited in the fund pursuant to any provisions of law.

(b) The Controller shall transfer from the California Environmental License Plate Fund to the Motor Vehicle Account in the State Transportation Fund amounts equal to the actual costs incurred by the Department of Motor Vehicles in performing its duties pursuant to Sections 5004, 5004.5, and Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 of the Vehicle Code. The Controller shall transfer to the post fund of the Veterans' Home of California established pursuant to Section 1047 of the Military and Veterans Code all revenue derived from the issuance of prisoner of war special license plates pursuant to Section 5101.5 of the Vehicle Code less the administrative costs of the Department of Motor Vehicles in that regard. The Director of Motor Vehicles shall certify these amounts to the Controller.

(c) The balance of the moneys in the California Environmental License Plate Fund shall be available for expenditure for the purposes and uses of the California Environmental Protection Program upon appropriation by the Legislature.

(d) All proposed appropriations for the program shall be summarized in a section in the Governor's Budget for each fiscal year and shall bear the caption "California Environmental Protection Program." The section shall contain a separate description of each project for which an appropriation is made. All such appropriations shall be made to the department performing the project and accounted for separately.

SEC. 3. Section 5106 of the Vehicle Code is amended to read:

5106. (a) In addition to the regular registration fee, the applicant shall be charged a fee of twenty-five dollars ($25).

(b) In addition to the regular renewal fee, for the vehicle to which such plates are assigned, the applicant for a renewal of such plates shall be charged an additional fee of ten dollars ($10), except that applicants for prisoner of war special license plates pursuant to Section 5101.5 shall not be charged this additional fee.

(c) Notwithstanding the provisions of subdivision (b) of this section, when payment of renewal fees is not required as specified in Section 4000, the holder of any environmental license plate may retain the plate upon payment of an annual fee of ten dollars ($10). Such fee shall be due at the expiration of the registration year of the

vehicle to which the environmental license plate was last assigned.

SEC. 4. Section 5106 of the Vehicle Code is amended to read:

5106. (a) In addition to the regular registration fee, the applicant shall be charged a fee of thirty-five dollars ($35).

(b) In addition to the regular renewal fee, for the vehicle to which the plates are assigned, the applicant for a renewal of the plates shall be charged an additional fee of ten dollars ($10), except that applicants for prisoner of war special license plates pursuant to Section 5101.5 shall not be charged this additional fee.

(c) Notwithstanding subdivision (b), when payment of renewal fees is not required as specified in Section 4000, the holder of any environmental license plate may retain the plate upon payment of an annual fee of ten dollars ($10). The fee shall be due at the expiration of the registration year of the vehicle to which the environmental license plate was last assigned.

(b) Notwithstanding Section 9265, the applicant for a duplicate environmental license plate shall be charged a fee of thirty dollars ($30).

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill 1408 are both chaptered and become effective January 1, 1983, both bills amend Section 5106 of the Vehicle Code, and this bill is chaptered after Senate Bill 1408, that the amendments to Section 5106 proposed by both bills be given effect and incorporated in Section 5106 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Senate Bill 1408 are both chaptered and become effective January 1, 1983, both amend Section 5106, and this bill is chaptered after Senate Bill 1408, in which case Section 3 of this act shall not become operative.

CHAPTER 1158

An act to amend Sections 66740 and 66787 of, to add Sections 66716.5, 66790.8, and 66796.40 to, and to repeal Section 66780.8 of, the Government Code, and to amend Section 4741.7 of the Health and Safety Code, relating to waste.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982]

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

SECTION 1. Section 66716.5 is added to the Government Code, to read:

66716.5. "Recycling" means the process of sorting, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of using the altered form.

SEC. 2. Section 66740 of the Government Code is amended to read:

66740. There is in the Resources Agency the State Solid Waste Management Board, which is continued in existence and shall be known as the California Waste Management Board. Any reference in any law or regulation to the State Solid Waste Management Board is a reference to the California Waste Management Board.

The board shall consist of the following members:

(a) One member appointed by the Governor who is a mayor or a city council member.

(b) One member appointed by the Governor who is a county supervisor.

(c) Three representatives of the public appointed by the Governor.

(d) One representative of the public appointed by the Speaker of the Assembly, who shall have specialized education and experience in natural resources conservation and resources recovery.

(e) One representative of the public appointed by the Senate Committee on Rules, who shall be a registered civil engineer under the laws of this state and have specialized education and experience in natural resources conservation and resources recovery.

(f) One member appointed by the Governor from the private sector of the solid waste management industry from southern California.

(g) One member appointed by the Governor from the private sector of the solid waste management industry from northern California.

The Governor shall appoint, subject to the advice and consent of a majority of the Members of the Senate, one of the members of the board as chairman. The chairman shall serve full time and shall receive an annual salary as prescribed by Section 11552.

SEC. 3. Section 66780.8 of the Government Code is repealed.

SEC. 4. Section 66796.40 is added to the Government Code, to read:

66796.40. (a) An enforcement agency shall not issue, and the board shall not concur in the issuance of, a solid waste facilities permit to any stationary project designed to convert solid waste from offsite sources into energy or synthetic fuels until the enforcement agency makes all the following findings:

(1) The proposed project meets the requirements specified in paragraphs (1) and (2) of subdivision (a) of Section 66796.34.

(2) The proposed project is consistent with state solid waste management policy.

(3) The proposed project has a defined source of waste, including waste available from existing solid waste transfer and processing stations.

(4) The project is guaranteed, by contract or other commitments, more than sufficient quantities of waste to maintain the project's economic feasibility for the life of the bonded indebtedness of the project. In guaranteeing quantities of waste, those materials which are being recycled or which may reasonably be expected to be

recycled shall not be included in these quantities.

(b) Facilities for the recovery of methane gas from disposal sites shall not be subject to the provisions of this section.

SEC. 5. Section 66787 of the Government Code is amended to read:

66787. (a) As used in this section, "local agency" means any county, city, city and county, special district authorized to collect, dispose, or collect and dispose of solid waste, or any joint powers authority formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 which is authorized to construct and operate a facility for the conversion of solid waste into energy, synthetic fuel, or reusable materials.

(b) As used in this section, "business entity" means any organization or enterprise operated for profit, including, but not limited to, a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

(c) A local agency may enter into one or more agreements with other local agencies, or into one or more contracts with business entities for the design, construction, or operation of a facility for the conversion of solid waste into energy, synthetic fuel, or reusable materials, provided the construction of such facility conforms to the solid waste management plan approved pursuant to Section 66780. One contractor may be selected to perform the design, construction, and operation under one contract or separate contracts may be entered into with one or more contractors.

(d) Prior to awarding a contract or entering into an agreement, the local agency may request proposals from qualified business entities. After evaluating the proposals, the local entity may award the contract on the basis of the experience of the contractor, the type of technology employed by the contractor, the cost to the local agency, and any other relevant considerations.

If the local agency desires, the local agency may consider proposals only from those business entities which have previously submitted a statement of qualifications and information and have been deemed qualified to submit a proposal by the local agency.

(e) A facility designed, constructed, or operated pursuant to this section shall be eligible for financing with revenue bonds pursuant to the Revenue Bond Law of 1941, as contained in Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5, or any other available source of financing.

(f) The powers conferred on local agencies in this section are in addition to any other power which may be possessed by the agencies.

SEC. 6. Section 66790.8 is added to the Government Code, to read:

66790.8. Using its existing resources, the board shall study the effects of defining the sources of waste for stationary projects designed to convert solid waste from offsite sources into energy and synthetic fuels, including, but not limited to, the impact of defining the sources of waste upon existing solid waste facilities and recycling.

SEC. 7. Section 4741.7 of the Health and Safety Code is amended to read:

4741.7. Notwithstanding any of the provisions of this chapter, or of Article 4 (commencing with Section 5470) to the contrary, a district may fix and collect a fee or charge in connection with its refuse transfer or disposal system only pursuant to the provisions of Section 5471, and for these purposes "sanitation or sewerage system" includes a refuse transfer or disposal system. Any entity which collects such a fee or charge for a district pursuant to the provisions of Section 5471 may deduct the administrative costs of these collections from the revenue produced from such fee or charge. The revenues of these charges shall not be used for acquisition, construction, maintenance, or operation of any refuse transfer or disposal system, whether by the district, jointly, by contract, or otherwise, unless the system is either a facility for the conversion of solid waste into energy, synthetic fuels, or reusable materials or is open for use by all persons in the district. For the purposes of this section, "person" includes an individual, company, public or private corporation, or public entity.

CHAPTER 1159

An act to add Section 6546.11 to the Government Code, relating to joint powers agreements.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 6546.11 is added to the Government Code, to read:

6546.11. In addition to other powers, any joint powers entity created to exercise the powers granted by Chapter 8 (commencing with Section 33750) of Part 1 of Division 24 of the Health and Safety Code or Part 13 (commencing with Section 37910) of Division 24 of the Health and Safety Code, may issue revenue bonds for the purposes, and in accordance with the procedures, specified in those statutory provisions.

CHAPTER 1160

An act to amend Sections 37911, 37912, and 37922 of the Health and Safety Code, relating to residential rehabilitation.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 37911 of the Health and Safety Code is amended to read:

37911. The Legislature hereby finds and declares that it is necessary and essential that cities, counties, and cities and counties, and redevelopment agencies and housing authorities within such cities, counties, and cities and counties, be authorized to make long-term, low-interest loans to finance residential rehabilitation in depressed residential areas in order to encourage the upgrading of property in such areas. Unless such local agencies intervene to provide some form of assistance to finance residential rehabilitation, many depressed residential areas will deteriorate at an accelerated pace because property owners are not able to obtain rehabilitation loans from private sources.

The Legislature further finds and declares that many depressed residential areas contain scattered vacant parcels and residences that are so severely deteriorated that they must be demolished. The existence of such conditions in residential rehabilitation areas often impedes the progress of residential rehabilitation and improvement. It is, therefore, necessary that local agencies be authorized to include new construction in the form of residential infill construction as an integral part of a residential rehabilitation financing program.

The Legislature also finds and declares that preservation of existing housing stock is a primary purpose of this part. Much housing exists that can be preserved if moved from one location to another. It is, therefore, necessary that local agencies be authorized to include such preservation in the form of move-on residences.

SEC. 2. Section 37912 of the Health and Safety Code is amended to read:

37912. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by a local agency pursuant to this part and which are payable exclusively from the revenues, as defined in subdivision (k), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(b) "Citizen participation" means action by the local agency to provide persons who will be affected by residential rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the residential rehabilitation program. "Citizen participation" shall include, but not be limited to, all of the following and in the order provided below:

(1) Holding a public meeting prior to the original hearing by the legislative body for the purpose of considering selection of the area

for designation and determining the method of notice to property owners which will be used pursuant to paragraph (3).

(2) Consultation with an elected or appointed citizen advisory board of a proposed residential rehabilitation area. The members of the board shall include, to the greatest extent feasible, representatives of resident owners, nonresident owners, and resident tenants of both single-family and multiple-family residential structures who are not apartment managers, resident agents, or employees of property owners. The duties of the board are to develop a plan for public improvements and the rules and regulations for implementation of the proposed residential rehabilitation program.

(3) Dissemination of information relating to the time and location of the hearing, boundaries of the proposed residential rehabilitation area, and a general description of the proposed residential rehabilitation program by one of the following methods as determined by the legislative body at the public meeting provided in paragraph (1):

(A) At least seven days prior to the original hearing, by mailing to all real property owners within the proposed residential rehabilitation area at the address shown on the latest assessment roll and by distribution to residents of the proposed residential rehabilitation area in a manner determined to be appropriate by the local agency.

(B) After express findings by the legislative body at the public meeting provided in paragraph (1) at lower expense and effective notice at least equal to the mailed and distributed notice provided in subparagraph (A), by a method determined by the legislative body which includes, but is not limited to, publication of such notice pursuant to Section 6066 of the Government Code and posting of such notice at no less than three prominent places within the proposed residential redevelopment area and distribution to residents of the proposed residential rehabilitation area in a manner determined to be appropriate by the local agency.

"Citizen participation" also includes any other means of citizen involvement determined appropriate by the legislative body.

Public meetings and consultations held to implement the requirements of citizen participation shall be conducted by a planning or rehabilitation official designated by the legislative body. Public meetings shall be held at times and places convenient to residents and property owners.

(c) "Financing" means the lending of moneys or any other thing of value, or the purchase of a loan previously made by a qualified mortgage lender in accordance with rules and regulations of the local agency, for the purpose of residential rehabilitation and may, in the discretion of the legislative body, include any or all of the following:

(1) Refinancing of outstanding indebtedness of the participating party with respect to property which is subject to residential rehabilitation by such participating party.

(2) Financing or refinancing the cost incurred by a participating party in acquiring real property for the purpose of residential rehabilitation, including residential infill construction and move-on residences.

(3) Financing the acquisition of residences within a residential rehabilitation area which have been previously rehabilitated or constructed with financing pursuant to this part.

(d) "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

(e) "Local agency" means any of the following:

(1) Any city, county, or city and county.

(2) Any redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000).

(3) Any housing authority functioning pursuant to Part 2 (commencing with Section 34200).

(f) "Move-on residence" means a previously occupied single family or multifamily residential structure moved from a location to a vacant lot inside a residential rehabilitation area, or outside a residential rehabilitation area if the single-family or multi-family residential structure is for occupancy for persons or families of low or moderate income.

(g) "Participating party" means any person, company, corporation, partnership, firm, local agency, political subdivision of the state, or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provision of this part.

(h) "Qualified mortgage lender" means a mortgage lender authorized by a local agency to do business with the agency and to aid in financing pursuant to this part on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing authorized by this part. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this part.

(i) "Residential rehabilitation" includes the following:

(1) The construction, reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that such structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any one or more of the following factors:

(A) Defective design and character of physical construction.

(B) Faulty interior arrangement and exterior spacing.

(C) Inadequate provision for ventilation, lighting, and sanitation.

(D) Obsolescence, deterioration, and dilapidation.

(2) Residential infill construction, where authorized by the comprehensive residential rehabilitation financing program.

(3) A qualified home improvement loan, which has the same meaning as Section 103 (A) of the Federal Internal Revenue Code of 1954, as amended by Public Law 96-499, December 5, 1980.

(4) With respect to a move-on residence, where authorized by the comprehensive residential rehabilitation financing program, the acquisition prior to relocation of, movement of, installation of, and rehabilitation of, a move-on residence and purchase of a move-on residence that has previously been rehabilitated with financing under this part.

(5) Acquisition of real property for the purpose of rehabilitation or residential infill construction pursuant to paragraph (1), (2), or (4), if authorized by the comprehensive residential rehabilitation financing program.

(6) Purchase of residences within a residential rehabilitation area which have been previously rehabilitated or constructed with financing under this part, if authorized by the comprehensive residential rehabilitation financing program.

(7) Relocation payments required or authorized by Section 37922.2 or by Section 7265.3 of the Government Code in connection with rehabilitation of a residence financed pursuant to this part, or in connection with demolition of a structure for the purpose of making land available for residential infill construction financed pursuant to this part. The cost of relocation payments may be included in the principal amount of a loan made to a participating party or may be paid directly from bond proceeds.

(j) "Residential infill construction" means the construction of new single-family or multifamily residences, excluding commercial or mixed residential and commercial structures and residential hotels, on vacant lots in residential rehabilitation areas, including lots cleared by demolition of an existing structure. However, the cost of demolition of existing structures shall not be eligible for financing under this part, and it is the intent of the Legislature that local agencies shall adopt lending policies and criteria which will encourage rehabilitation of existing residences in residential rehabilitation areas wherever possible.

(k) "Residence" means real property improved with a residential structure and, in residential rehabilitation areas only, also includes real property improved with a commercial or mixed residential and commercial structure which, in the judgment of the local agency, is an integral part of a residential neighborhood. "Residence" also includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

"Residence" also includes residential hotels in which not less than one-half of the occupied dwelling units are occupied on a

nontransient basis. A dwelling unit shall be deemed to be used on a nontransient basis for such purpose if the term of the tenancy is one month or longer or if the tenant has resided in the unit for more than 30 days. In a residential hotel, individual dwelling units need not have cooking facilities or individual sanitary facilities. However, for purposes of this subdivision, a residential hotel does not include dormitories, fraternity and sorority houses, hospitals, sanitariums, rest homes, or trailer parks and courts.

(*l*) "Rehabilitation standards" means the applicable local or state standards for the rehabilitation of residences located in residential rehabilitation areas or rehabilitated pursuant to Section 37922.1, including any higher standards adopted by the local agency as part of its residential rehabilitation financing program.

(m) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the local agency from the financing of residential rehabilitation, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other moneys as the legislative body may, in its discretion, make available therefor.

(n) "Residential rehabilitation area" means the geographical area designated by the local agency as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this part.

SEC. 3. Section 37922 of the Health and Safety Code is amended to read:

37922. Prior to the issuance of any bonds or bond anticipation notes of the local agency for residential rehabilitation, the local agency shall by ordinance or resolution adopt a comprehensive residential rehabilitation financing program which shall include, but is not limited to, the following items:

(a) Criteria for selection of residential rehabilitation areas by the local agency which shall include findings by the local agency that:

(1) There are a substantial number of deteriorating structures in the area which do not conform to community standards for decent, safe, sanitary housing.

(2) Financial assistance from the local agency for residential rehabilitation is necessary to arrest the deterioration of the area.

(3) Financing of residential rehabilitation in the area is economically feasible.

However, these findings are not required when the residential rehabilitation area is a redevelopment project area to which the provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)) apply.

(b) Procedures for selection of residential rehabilitation areas by the local agency which shall include:

(1) Provisions for citizen participation in selection of residential rehabilitation areas.

(2) Provisions for a public hearing by the governing body of the local agency prior to selection of any particular residential rehabilitation area by the local agency.

(c) A commitment that, subject to budgeting and fiscal limitations of the local agency, rehabilitation standards will be enforced in 95 percent of the residences in each residential rehabilitation area.

(d) Guidelines for financing rehabilitation of existing residences, which shall be subject to the following limitations:

(1) Unless insured or guaranteed in whole or in part by an instrumentality of the United States or the State of California or by a person licensed to insure loans in this state, outstanding loans on the property to be rehabilitated, including the amount of the loans for rehabilitation, shall not exceed 80 percent of the anticipated after-rehabilitation value of the property to be rehabilitated, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 95 percent of the anticipated after-rehabilitation value of the property if such loans are made for the purpose of rehabilitating the property for residential purposes, there is demonstrated need for such higher limit, and there is a high probability that the value of the property will not be impaired during the term of the loan. Outstanding loans on property to be rehabilitated may be authorized up to 97 percent of the anticipated after-rehabilitation value of the property, if the person to whom the loan is made is of low income, as defined in Section 50093. A nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of Section 17265 of the Revenue and Taxation Code, may be authorized a loan not exceeding either 98 or 100 percent of the estimated after-rehabilitation value or of its total development cost, according to the standards for nonprofit housing sponsors set forth in Section 50958, if the dwelling units within the residence rehabilitated with financing under this part are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(2) The maximum repayment period for such residential rehabilitation loans shall be 40 years or four-fifths of the economic life of the structure, whichever is less.

(3) Except as authorized in this paragraph, the maximum amount loaned for rehabilitation, exclusive of costs of acquisition, or exclusive of refinancing, for each dwelling unit and for each commercial unit which is, or is part of, a "residence" within the meaning of that term as defined in this part, shall be forty-five thousand dollars ($45,000). Financing provided pursuant to this part by the redevelopment agency of a city and county may exceed such limitation with respect to loans for rehabilitation of one-to-four unit dwellings, provided the total amount financed, including any amount loaned for acquisition or refinancing, shall not exceed eighty thousand dollars ($80,000) per

dwelling unit or 90 percent of the after-rehabilitation value specified in paragraph (1), whichever is less, regardless of whether the loan is or is not insured or guaranteed.

(4) No more than 20 percent of any loan for such residential rehabilitation shall be used for residential rehabilitation which is not required under the local agency's rehabilitation standards except that in the case of owner-occupied one- to four-dwelling-unit properties, up to 40 percent of the loan for such residential rehabilitation may be used for residential rehabilitation not required under the local agency's rehabilitation standards.

(5) Except with respect to move-on residences, loans shall not be made for the purpose of refinancing the outstanding indebtedness of a participating party with respect to property which is subject to residential rehabilitation or for financing the acquisition of property which has been, or is to be, subject to residential rehabilitation, unless the cost, including in such costs any amounts previously expended for residential rehabilitation of that property by a participating party, within a residential rehabilitation area or a redevelopment project area established at the time of such expenditure, of meeting the rehabilitation standards is at least 20 percent of the principal amount of the loan.

(e) Guidelines for financing residential infill construction within any residential rehabilitation area which is approved for such a program by the legislative body. The guidelines for residential infill construction shall be subject to the following limitations:

(1) Unless insured or guaranteed in whole or in part by an instrumentality of the United States or the State of California or by a person licensed to insure loans in this state, outstanding loans on the property, including the amount of the loans for residential infill construction, shall not exceed 80 percent of the anticipated value of the property, following completion of the construction, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 90 percent of the anticipated value of the property following completion of the construction, if such loans are made for the purpose of constructing residences containing two or more dwelling units. A nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of Section 17265 of the Revenue and Taxation Code, may be authorized a loan not exceeding 100 percent of the estimated value of the property following completion of construction, if the dwelling units constructed with financing under this part are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(2) The maximum repayment period for loans for residential infill construction shall be 40 years or four-fifths of the economic life of the structure, whichever is less.

(f) Guidelines for financing the purchase of residences previously rehabilitated or constructed with financing under this part, if authorized by the legislative body, which shall be subject to the following limitations:

(1) Purchasers of single-family dwellings eligible to receive such financing shall be persons or families of low or moderate income.

(2) All rental dwelling units in the residence financed shall be committed for the period during which the loan is outstanding for occupancy by persons and families of low or moderate income, as defined by Section 50093. Upon recordation of the deed, other instrument of conveyance, lease, or instrument of financing in the office of the county recorder of the county in which the real property is located, the rental dwelling units reserved for occupancy by persons of low income shall remain for such occupancy for not less than 30, nor more than 55, years. Such recorded agreement shall be binding upon successors in interest.

(3) Unless insured or guaranteed in whole or in part by an instrumentality of the United States or the State of California or by a person licensed to insure loans in this state, outstanding loans on the property to be acquired shall not exceed 80 percent of the value of the property, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 90 percent of the value of the property if such loans are made for the purpose of financing residences containing two or more dwelling units. A nonprofit corporation incorporated pursuant to, or otherwise made subject to the provisions of, Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of Section 17265 of the Revenue and Taxation Code, may be authorized a loan not exceeding 100 percent of the value of the property, if the dwelling units within the residence are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(4) The maximum repayment period for acquisition loans shall be 40 years or four-fifths of the economic life of the property, whichever is less.

(g) No more than 35 percent of the aggregate principal amount of all loans made in a residential rehabilitation area may be for residential infill construction or acquisition financing.

(h) A requirement that a plan for public improvements necessary to successful rehabilitation of the residential rehabilitation area be developed, with citizen participation, for each residential rehabilitation area and that the plan for public improvements be adopted by the local agency prior to the financing of residential rehabilitation in any residential rehabilitation area, together with a commitment that, subject to budgetary and fiscal limitations, such plan will be carried out by the local agency.

CHAPTER 1161

An act to amend Section 33760.5 of the Health and Safety Code, relating to housing.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 33760.5 of the Health and Safety Code is amended to read:

33760.5. (a) Notwithstanding the requirements of Section 33760, agencies which operate within a jurisdiction, the population of which is in excess of 600,000 persons, as determined by the Department of Finance, may additionally provide financing for residential construction of multifamily rental units outside of a redevelopment project area as set forth in and subject to the limitations of this section.

(b) Within its territorial jurisdiction, an agency may determine the location and character of any residential construction to be financed under the provisions of this chapter and may make mortgage or construction loans to participating parties through qualified mortgage lenders, or purchase mortgage or construction loans without premium made by qualified mortgage lenders to participating parties for financing residential construction of multifamily rental units occupied by, or in the case of projects financed with mortgages insured under Title II of the National Housing Act (Public Law 73-479, as amended) intended for occupancy by, persons and families of low or moderate income, as defined in Section 50093, outside of a redevelopment area to the extent required by Section 103(b) (4) (A) of the Internal Revenue Code.

(c) Not less than 20 percent of the total number of multifamily rental units outside of a project area financed or for which financing has been extended or committed pursuant to this chapter during any calendar year shall be occupied by, or made available to, lower-income households, as defined in Section 50079.5. Not less than 10 percent of the total number of such rental units shall be occupied by, or made available to, very low-income households, as defined in Section 50105.

(d) The provisions of subdivision (c) shall apply for a period of not less than 20 years from the date units financed pursuant to this section are first made available for occupancy. However, in the event federal rent subsidies become unavailable to tenants and projects in the agency's jurisdiction, the requirements of this subdivision and subdivision (c) shall not apply.

(e) This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which

is chaptered before January 1, 1984, deletes or extends such date.

CHAPTER 1162

An act to amend Sections 18006, 18006.3, 18013, 18045, 18050, 18055, 18062.2, and 18062.8 of, and to repeal Sections 18011.5, 18054.6, and 18063.5 of, the Health and Safety Code, relating to mobilehomes.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 18006 of the Health and Safety Code is amended to read:

18006. "Licensee" means a dealer, dealer branch, manufacturer, distributor, or salesperson licensed pursuant to this part.

SEC. 2. Section 18006.3 of the Health and Safety Code is amended to read:

18006.3. "Manufacturer" means any person who produces from raw materials or basic components a mobilehome or commercial coach of a type subject to the provisions of this part, or who permanently alters for purposes of retail sales, rent, or lease, within this state, mobilehomes or commercial coaches by converting them into mobilehomes or commercial coaches subject to this part.

SEC. 3. Section 18011.5 of the Health and Safety Code is repealed.

SEC. 4. Section 18013 of the Health and Safety Code is amended to read:

18013. (a) "Salesperson" means a person not otherwise expressly excluded by this section, who does one or more of the following:

(1) Is employed as a salesperson by a dealer, or who, under any form of contract, agreement, or arrangement with a dealer, for commission, money, profit, or other thing of value, sells, exchanges, buys, or offers for sale, negotiates, or attempts to negotiate, a sale, or exchange of an interest in a mobilehome or commercial coach.

(2) Induces or attempts to induce any person to buy or exchange an interest in a mobilehome or commercial coach, and who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value, from either the seller or purchaser of the mobilehome or commercial coach.

(3) Exercises managerial control over the business of a licensed mobilehome or commercial coach dealer or who supervises salespersons employed by a licensed dealer, whether compensated by salary or commission, including, but not limited to, any person who is employed by the dealer as a general manager, assistant general manager or sales manager, or any employee of a licensed mobilehome or commercial coach dealer who negotiates with or induces a customer to enter into a security agreement or purchase

agreement or purchase order for the sale of a mobilehome or commercial coach on behalf of the licensed mobilehome or commercial coach dealer.

(b) The term "salesperson" does not include any of the following:

(1) A representative of an insurance company, finance company, bank, savings and loan association, or public official, who in the regular course of business, is required to dispose of, or sell mobilehomes or commercial coaches under a contractual right or obligation of the employer, or in the performance of an official duty, or under authority of any court of law, as long as the sale is for the purpose of protecting the seller from any loss or is pursuant to the authority of a court of competent jurisdiction.

(2) A person who is licensed as a manufacturer or distributor.

(3) A person exclusively employed in a bona fide business of exporting mobilehomes or commercial coaches, or of soliciting orders for the sale and delivery of mobilehomes or commercial coaches outside the territorial limits of the United States.

(4) A person not engaged in the purchase or sale of mobilehomes or commercial coaches as a business, disposing of mobilehomes or commercial coaches acquired for the person's own use, or for use in business when they have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this part.

(5) A person licensed as a mobilehome or commercial coach dealer doing business as a sole ownership or a member of a partnership or a stockholder and director of a corporation licensed as a mobilehome or commercial coach dealer under this part, as long as the person engages in the activities of a salesperson exclusively on behalf of the sole ownership or partnership or corporation in which the person owns an interest or stock, and the person owning the stock is a director of the corporation; otherwise, the person shall be deemed to be a mobilehome or commercial coach salesperson and subject to the provisions of Section 18045.

SEC. 5. Section 18045 of the Health and Safety Code is amended to read:

18045. It shall be unlawful for any person to act as a licensee within this state without having first procured a license or temporary permit issued by the department pursuant to this chapter, or when a license or temporary permit has been canceled, suspended, revoked, invalidated, expired, or the terms and conditions of an agreement for a stipulated penalty entered into pursuant to Section 18064.5 have not been fulfilled.

SEC. 6. Section 18050 of the Health and Safety Code is amended to read:

18050. (a) Every applicant for an occupational license shall make application to the department for a license containing a general distinguishing number.

(b) The applicant shall submit all information as may be reasonably required by the department in carrying out the provisions of this chapter, including, but not limited to, proof of

successful completion within the prior six months of the appropriate department examination and proof of his or her status as a bona fide manufacturer, manufacturer branch, distributor, distributor branch, dealer, dealer branch, representative, or salesperson.

(c) Every applicant shall submit an application to the department on the forms prescribed by the department. The applicant shall provide the department with information as to the applicant's character, honesty, integrity, and reputation, as the department may consider necessary. The department, by regulation, shall prescribe what information is required of the applicant for the purposes of this subdivision.

(d) Upon receipt of a complete application for a license which is accompanied by the appropriate fee, the department shall, within 120 days, make a thorough investigation of the information contained in the application.

SEC. 7. Section 18054.6 of the Health and Safety Code is repealed.

SEC. 8. Section 18055 of the Health and Safety Code is amended to read:

18055. (a) The department may require that fees shall be paid to the department for the issuance or renewal of a license to do business as a licensee. The fees shall reimburse the department for costs incurred in administration and enforcement of this chapter. The department may refuse to renew a license if a licensee has failed to pay any fees or penalties due the department pursuant to this part.

(b) Any licensee required to be licensed under this chapter who fails to make application for a license when required shall, in addition to the fees required pursuant to subdivision (a), pay a penalty of 50 percent of the license fee.

SEC. 9. Section 18062.2 of the Health and Safety Code is amended to read:

18062.2. It is also unlawful for a dealer to do any of the following:

(a) Engage in the business for which the dealer is licensed without at all times maintaining an established place of business.

(b) Employ any person as a salesperson who is not licensed pursuant to this part, or whose license is not displayed on the premises of the dealer as provided in Section 18063.

(c) Permit the use of his or her dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of mobilehomes or commercial coaches 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 mobilehomes or commercial coaches 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 mobilehomes or commercial coaches.

(d) Advertise any specific mobilehome or commercial coach for

sale without identifying the mobilehome or commercial coach by its serial number.

(e) Advertise the total price of a mobilehome or commercial coach without including all costs to the purchaser at time of delivery at the dealer's premises, except sales tax, title and registration fees, the fee charged by the state for the issuance of the certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars ($20).

(f) Exclude from the advertisement of a mobilehome or commercial coach for sale information to the effect that there will be added to the advertised total price at the time of sale, charges for sales tax, title and registration fees, escrow fees, and any dealer documentary preparation charge.

(g) Represent the dealer documentary preparation charge as a governmental fee.

(h) Fail to exercise reasonable supervision over the activities of employees who negotiate or promote the sale of manufactured homes, mobilehomes, or commercial coaches.

(i) Not post the salesperson's license in a place conspicuous to the public on the premises where they are actually engaged in the selling of mobilehomes and commercial coaches for the employing dealer. The license shall be displayed continuously during their employment. If a salesperson's employment is terminated, the dealer shall return the license to the salesperson.

(j) Offer for sale, rent, or lease within this state a new mobilehome, manufactured home, or commercial coach whose manufacturer is not licensed under this part.

SEC. 10. Section 18062.8 of the Health and Safety Code is amended to read:

18062.8. It is unlawful for any manufacturer, or distributor licensed under this code to do any of the following:

(a) Refuse or fail to deliver, in reasonable quantities and within a reasonable time after receipt of an order from a dealer having a franchise for the retail sale of any new mobilehome or commercial coach sold or distributed by the manufacturer or distributor, any new mobilehome or commercial coach or parts or accessories to new mobilehomes or commercial coaches that are covered by the franchise, if the mobilehome or commercial coach, parts or accessories are publicly advertised as being available for delivery or actually being delivered. This subdivision is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer, manufacturer branch, distributor, or distributor branch.

(b) Prevent or require or attempt to prevent or require, by contract or otherwise, any change in the capital structure of a dealership, if the dealer at all times meets any reasonable capital standards agreed to by the dealer and the manufacturer or

distributor, and also provided that no change in capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor.

(c) Prevent or require, or attempt to prevent or require, a dealer to change the executive management of a dealership, other than the principal dealership operator or operators, if the franchise was granted the dealer in reliance upon the personal qualifications of that person or persons.

(d) Prevent or require, or attempt to prevent or require, by contract or otherwise, any dealer, or any officer, partner, or stockholder of any dealership, to participate in the sale or transfer of any part of the interest of any of them to any other person or persons. No dealer, officer, partner, or stockholder shall, however, have the right to sell, transfer, or assign the franchise, or any right thereunder, without the consent of the manufacturer or distributor if the consent is not unreasonably withheld.

(e) Prevent, or attempt to prevent, a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall be no transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, if the consent is not unreasonably withheld.

(f) Obtain money, goods, services, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and any other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the dealer.

(g) Require a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by this part or to require any controversy between a dealer and a manufacturer or distributor to be referred to any person other than the department, if the referral would be binding on the dealer. This subdivision shall not, however, prohibit arbitration before an independent arbitrator.

(h) Increase prices of mobilehomes or commercial coaches which the dealer had ordered for private retail consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer shall constitute evidence of each order. In the event of manufacturer price reductions, the amount of any reduction received by a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions shall apply to all mobilehomes and commercial coaches in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series mobilehomes or commercial coaches at the time of the introduction of new models or series shall not be considered a price increase or price decrease. Price changes caused by either of the following shall not be subject to the provisions of this subdivision:

(1) The addition to a mobilehome or commercial coach of required or optional equipment pursuant to state or federal law.

(2) Revaluation of the United States dollar in the case of foreign-made mobilehomes or commercial coaches.

(i) Fail to pay to a dealer, within a reasonable time following receipt of a valid claim by a dealer thereof, any payment agreed to be made by the manufacturer or distributor to the dealer by reason of the fact that a new mobilehome or commercial coach of a prior year model is in the dealer's inventory at the time of introduction of new model mobilehomes or commercial coaches. A manufacturer or distributor shall not authorize or enable any new model to be delivered by dealers at retail more than 30 days prior to the eligibility date of the model change allowance payment for prior year model mobilehomes or commercial coaches.

(j) Deny the widow or heirs designated by a deceased owner of a dealership, the opportunity to participate in the ownership of the dealership or successor dealership under a valid franchise for a reasonable time after the death of the owner.

(k) Offer any refunds or other types of inducements to any dealer or other person for the purchase of new mobilehomes or commercial coaches of a certain make and model to be sold to the state or any political subdivision thereof without making the same offer to all other dealers in the same make and model within the relevant market area.

(*l*) Employ a person as a distributor who has not been licensed pursuant to this chapter.

(m) Deny any dealer the right of free association with any other dealer for any lawful purpose.

(n) Compete with a dealer in the same make and model operating under an agreement or franchise from a manufacturer or distributor in the relevant market area. A manufacturer or distributor shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions. A distributor shall not be deemed to be competing when a wholly owned subsidiary corporation of the distributor sells mobilehomes or commercial coaches at retail, if, prior to January 1, 1970, such subsidiary corporation has been a wholly owned subsidiary of the distributor and engaged in the sale of mobilehomes or commercial coaches at retail.

(o) Unfairly discriminate among its franchisees with respect to warranty reimbursement or authority granted its franchisees to make warranty adjustments with retail customers.

(p) Sell mobilehomes or commercial coaches to persons not licensed under this part for resale.

(q) Fail to exercise reasonable supervision over the activities of employees who negotiate or promote the sale of manufactured homes, mobilehomes, or commercial coaches.

SEC. 11. Section 18063.5 of the Health and Safety Code is repealed.

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 1163

An act to amend Sections 22844 and 27008 of, and to add Section 22843.5 to, the Elections Code, and to amend Section 34461 of the Government Code, relating to elections.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 22843.5 is added to the Elections Code, to read:

22843.5. (a) If, by 5 p.m. on the 63rd day prior to the day fixed for a regularly scheduled municipal election, no one or only one person has been nominated for any office which is elected on a citywide basis, or no one or only one person is nominated to be elected from or by a legislative district, the city clerk shall submit a certificate of these facts to the governing body of the city and inform the governing body of the city that it may, at a regular or special meeting held before the municipal election, adopt one of the following courses of action:

(1) Appoint to the office the person who has been nominated.

(2) Appoint to the office any eligible elector if no one has been nominated.

(3) Hold the election if either no one or only one person has been nominated. The city clerk shall publish a notice of the facts described in this section and the courses of action available under this subdivision. Publication shall be made pursuant to Section 6061 of the Government Code in any newspaper of general circulation as designated by the clerk.

After the publication, the governing body of the city may make the appointment or direct an election to be held in the affected territory. The person appointed, if any, shall qualify and take office and serve

exactly as if elected at a municipal election for the office.

If, by the 50th day before the municipal election, no person has been appointed to office pursuant to paragraph (1) or (2), the election shall be held.

(b) The provisions of subdivision (a) shall not apply if, at the regularly scheduled municipal election, more than one person has been nominated to another city office to be elected on a citywide basis or, a city measure has qualified and is to be submitted to the voters at that municipal election.

(c) Notwithstanding Chapter 8 (commencing with Section 7300) of Division 6 or any other provision of the law to the contrary, if the governing body of a city makes an appointment pursuant to subdivision (a), the clerk shall not accept for filing any statement of write-in candidacy which is submitted after 5 p.m. on the 50th day prior to the regularly scheduled municipal election.

In the event that an appointment to office is made in a particular legislative district pursuant to subdivision (a), that appointment shall not affect the conduct of the municipal election in other legislative districts of the city.

SEC. 2. Section 22844 of the Elections Code is amended to read:

22844. (a) If, by 5 p.m. on the 63rd day before a municipal election to fill any vacancy in office, no one or only one person has been nominated for any elective office to be filled at that election, the election being subject to Section 36512 of the Government Code, the city clerk shall submit a certificate of these facts to the governing body of the city and inform the governing body of the city that it may, at a regular or special meeting held before the municipal election, adopt one of the following courses of action:

(1) Appoint to such office the person who has been nominated.

(2) Appoint to such office any eligible elector if no one has been nominated.

(3) Hold the election if either no one or only one person has been nominated.

The city clerk shall publish a notice of the facts described in this section and the courses of action available under this subdivision. Publication shall be made pursuant to Section 6061 of the Government Code in any newspaper of general circulation as designated by the clerk.

After the publication, the governing body of the city may make such appointment or direct an election to be held. The person appointed, if any, shall qualify and take office and serve exactly as if elected at a municipal election for such office.

If, by the 50th day before the municipal election, no person has been appointed to office pursuant to paragraph (1) or (2), the election shall be held.

Notwithstanding Section 7301 or any other provision of the law to the contrary, if the governing body of a city makes an appointment as provided in this section, the city clerk shall not accept for filing any statement of write-in candidacy which is submitted after 5 p.m.

on the 50th day prior to the election described herein.

(b) Nothing in this section shall be construed to prevent a city from enacting an ordinance pursuant to Section 36512.1 of the Government Code, requiring that a special election be held, or an ordinance pursuant to Section 36512.2 of the Government Code, providing that a person appointed to fill a vacancy on the city council holds office only until the date of a special election, or both. Such an ordinance or ordinances may allow for appointment without requiring or providing for a special election, consistent with the provisions of subdivision (a).

SEC. 3. Section 27008 of the Elections Code is amended to read:

27008. Except when a person has been appointed to office pursuant to Section 22843.5 or 22844 because no person had been nominated to office, proceedings may not be commenced against an officer of a city, county, special district, school district, community college district, or county board of education if:

(a) He has not held office during his current term for more than 90 days.

(b) A recall election has been determined in his favor within the last six months.

(c) His term of office ends within six months or less.

SEC. 4. Section 34461 of the Government Code is amended to read:

34461. If the petition is signed by not less than 15 percent of the registered electors of the city, the legislative body shall, within 20 days after it is presented, order an election at which the proposal, without alteration, shall be submitted to a vote of the voters of the city. The election shall be held at the next regularly scheduled or established election, at which all the voters of the city are eligible to vote, occurring not less than 90 days after the order of the legislative body. Amendments proposed by the governing body and amendments proposed by petition of the voters may be submitted at the same election. The governing body of the city or city and county, shall within 15 days after issuing the order calling the election, cause the proposed charter amendments or the proposal for charter repeal, to be published once in the official newspaper of the city or city and county and in each edition thereof, during the day of publication. In case there is no official newspaper, the proposals for charter amendment or repeal shall be published in a newspaper of general circulation within the city or city and county and in all editions thereof, issued during the day of publication. If the governing body causes copies of any proposed charter amendments to be mailed to the voters, the text of the proposed charter amendments may show the difference from existing provisions of law by the use of distinguishing type styles.

SEC. 5. 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 1164

An act relating to public resources, in this connection amending and supplementing the Budget Act of 1982 by adding Sections 8.46 and 8.47 thereto, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Sections 2, 3, and 9 of this act shall be known and may be cited as the Redwood Empire Parks Development Act of 1982.

SEC. 2. Section 8.46 is added to the Budget Act of 1982 (Chapter 326, of Statutes of 1982), to read:

Sec. 8.46. Notwithstanding any other provision of law to the contrary, none of the moneys payable from the Parklands Fund of 1980 appropriated by category (i) of Item 3790-301-721 to the Department of Parks and Recreation for restoration at Fort Humboldt State Historic Park may be encumbered unless and until the Department of Parks and Recreation has consulted fully with the Humboldt County Historical Society, the local American Indian community, and the Native American Heritage Commission to ensure that the Department of Parks and Recreation interprets the complete and accurate history of the fort.

SEC. 3. Section 8.47 is added to the Budget Act of 1982 (Chapter 326, Statutes of 1982), to read:

Sec. 8.47. Notwithstanding any other provision of law to the contrary, Provision 14 to Item 3790-301-721 is null and void and shall have no force or effect.

SEC. 4. Notwithstanding subdivision (d) of Section 21191 of the Public Resources Code, the sum of fifty thousand dollars ($50,000) is hereby appropriated from the California Environmental License Plate Fund to the Department of Boating and Waterways for allocation as a grant to the County of Humboldt for emergency beach erosion control at King Salmon on Humboldt Bay.

SEC. 5. The reconstruction of the historic chapel at the El Presidio Santa Barbara project is hereby exempt from the provisions of Sections 5002.1, 5002.2, 5002.3, and 5002.4 of, and Article 1.7 (commencing with Section 5019.50) of Chapter 1 of Division 1 of the Public Resources Code.

SEC. 6. Section 4 of this act shall become operative only if Senate Bill No. 1408 of the 1981–82 Regular Session is chaptered, in which

case, Section 4 shall become operative on the date that SB 1408 is chaptered or on the date this bill is chaptered, whichever occurs later.

SEC. 7. Notwithstanding any other provision of law, including, but not limited to, Division 7 (commencing with Section 7000) and Division 8 (commencing with Section 8100) of the Health and Safety Code, or any local ordinance, rule, or regulation, upon the request of any person specified in Section 7525 of the Health and Safety Code, and upon the determination by the Director of Parks and Recreation that it will be compatible with the operations of the Hearst San Simeon State Historic Monument, the remains of William Randolph Hearst and of his spouse and children may be interred on land owned by the the Hearst family immediately adjacent to the Hearst San Simeon State Historical Monument.

SEC. 8. The Department of Parks and Recreation shall prepare both of the following using available funds:

(a) A general plan for the state redwood parks in Del Norte and Humboldt Counties. The plan shall be coordinated closely with the plan for the Redwood National Park prepared by the National Park Service to permit maximum possible federal funding of development of the state redwood parks. The plan shall be submitted to the Legislature on or before January 1, 1984.

(b) A comprehensive study of state park system properties along and adjacent to State Highway Route 1 in Marin, Mendocino, and Sonoma Counties. The study shall recommend future development of these properties to meet park and recreation needs unmet by existing public and private facilities and shall be submitted to the Legislature on or before July 1, 1984.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that various public resources projects may be commenced at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1165

An act to amend Sections 89700 and 89721 of the Education Code, relating to the California State University, and making an appropriation therefor.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 89700 of the Education Code is amended to read:

89700. (a) The trustees may by rule require all persons to pay fees, rents, deposits, and charges for services, facilities or materials provided by the trustees to such persons. The trustees may, by rule, provide for the method of collecting such fees, rents, deposits, and charges, and may, by rule, provide for the refund in whole or part of such fees, rents, deposits, and charges collected in error or collected for facilities, services, or materials not utilized.

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

SEC. 2. Section 89721 of the Education Code, as added by Section 1 of Chapter 254 of the Statutes of 1981, is amended to read:

89721. Notwithstanding any other provision of law to the contrary, the chief fiscal officer of each campus of the California State University shall deposit into and maintain in local trust accounts or in trust accounts in accordance with the provisions of Sections 16305 to 16305.7, inclusive, of the Government Code, or in the California State University and Colleges Trust Fund, moneys received in connection with the following sources or purposes:

(a) Gifts, bequests, devises, and donations received under Section 89720.

(b) Any student loan or scholarship fund program, including but not limited to, student loan programs of the state, federal government (including programs referred to in Section 89723), local government, or private sources.

(c) Advance payment for anticipated expenditures or encumbrances in connection with federal grants or contracts.

(d) Room, board, and similar expenses of students enrolled in the international program of the California State University.

(e) Cafeteria replacement funds.

(f) Miscellaneous receipts in the nature of deposits subject to return upon approval of a proper application.

(g) Fees and charges for services, materials, and facilities authorized by Section 89700 where such fees or charges are required of those persons who, at their option, use the services or facilities, or are provided the materials, for which the fees or charges are made. Fees and charges so received and deposited shall be used solely to meet the costs of providing such services, materials, and facilities.

(h) Fees for instructionally related activities as defined by the trustees and as authorized by Section 89700 and revenues derived

from the conduct of such instructionally related activities. The trustees shall have all authority necessary to administer and use the fees and revenues received and deposited to support such instructionally related activities.

(i) 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 before January 1, 1986, deletes or extends that date.

SEC. 3. Section 89721 of the Education Code, as added by Section 3 of Chapter 254 of the Statutes of 1981, is amended to read:

89721. Notwithstanding any other provision of law to the contrary, the chief fiscal officer of each campus of the California State University shall deposit into and maintain in local trust accounts or in trust accounts in accordance with the provisions of Sections 16305 to 16305.7, inclusive, of the Government Code, or in the California State University and Colleges Trust Fund, moneys received in connection with the following sources or purposes:

(a) Gifts, bequests, devises, and donations received under Section 89720.

(b) Any student loan or scholarship fund program, including but not limited to, student loan programs of the state, federal government (including programs referred to in Section 89723), local government, or private sources.

(c) Advance payment for anticipated expenditures or encumbrances in connection with federal grants or contracts.

(d) Room, board, and similar expenses of students enrolled in the international program of the California State University.

(e) Cafeteria replacement funds.

(f) Miscellaneous receipts in the nature of deposits subject to return upon approval of a proper application.

(g) Fees and charges for services, materials, and facilities authorized by Section 89700 where such fees or charges are required of those persons who, at their option, use the services or facilities, or are provided the materials, for which the fees or charges are made. Fees and charges so received and deposited shall be used solely to meet the costs of providing such services, materials, and facilities.

(h) This section shall become operative January 1, 1986.

CHAPTER 1166

An act to amend Sections 503, 504, 610, 701, 706, 827, 1006, 1017, 1103, 1638, 3578, 3709, 3711, 6653.3, 6834, 10213, 14218, 14238, 14239, 17121, 22003, 23528, 25301, 25500, 27211, and 29710 of the Elections Code, relating to elections.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 503 of the Elections Code is amended to read:

503. (a) Except as provided in subdivision (c), the affidavit of registration shall show all the facts required to be stated.

(b) Except as provided in subdivisions (e) and (f), if the affidavit does not contain all of the information required, but the telephone number of the affiant is legible, the county clerk shall telephone the affiant and attempt to collect the missing information.

(c) If the affidavit does not contain all of the information required, and the county clerk is not able to collect the missing information by telephone, but the mailing address of the affiant is legible, the county clerk shall inform the affiant of the reason for rejection and shall send to the affiant a new voter registration card.

(d) If the affidavit fails to state the affiant's occupation as prescribed in subdivision (g) of Section 500, it shall be presumed that the affiant is unemployed or has no occupation, and such missing information shall not affect the validity of the affidavit.

(e) If a properly executed affidavit is received by the county clerk on or before the 29th day prior to an election, or is received in the manner and on the dates prescribed in subdivision (b) of Section 305, the clerk shall send to the affiant a voter notification by nonforwardable first-class mail with address correction requested. Such notification shall inform the voter that the voter is registered to vote in the forthcoming election, and that his or her name will appear on the index kept at the polls.

(f) If a properly executed affidavit is received by the county clerk after the 29th day prior to an election and such affidavit is not subject to the provisions of subdivision (b) of Section 305, the clerk shall send to the affiant a voter notification by nonforwardable first-class mail, with address correction requested. Such notification shall inform the voter that the registration will not be valid for the forthcoming election, but will be valid for any election occurring at least 29 days after the date of receipt of the affidavit by the county clerk.

SEC. 2. Section 504 of the Elections Code is amended to read:

504. If a voter notification sent to a voter under the provisions of subdivisions (e) and (f) of Section 503 is returned by the postal authorities to the county clerk or other officer charged with the duty of conducting an election, and the postal authorities inform the county clerk or other officer that the voter has removed from the address to which the notification was sent, or that the voter is not known at the address to which the notification was sent, or that the notification is undeliverable as addressed, the county clerk shall cancel the affidavit of registration for any election occurring at least 29 days after the county clerk receives such information from the postal authorities.

SEC. 3. Section 610 of the Elections Code is amended to read:

610. The county clerk, immediately following the cancellation of

affidavits of registration pursuant to Sections 706 and 803, shall compile a current list showing the number of voters, by party affiliations, in each Assembly, senatorial, and congressional district located in whole or in part within the county and in each supervisorial district and city located within the county. The list shall be made available, upon request, to any elector residing within the county.

A copy of the list shall also be sent, within 10 days after its compilation, to the Secretary of State. The Secretary of State, on the basis of the lists transmitted to him by the county clerks, shall compile a statewide list showing the number of voters, by party affiliations, in the state and in each city, Assembly district, senatorial district, congressional district, and supervisorial district in the state. A copy of this list shall be made available, upon request, to any elector of this state.

SEC. 4. 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 Sections 706, 801, and 803.

SEC. 5. Section 706 of the Elections Code is amended to read:

706. Within 60 days following the day of the direct primary and following the day of the statewide general election, the clerk shall cancel the affidavits of registration for each voter who failed to vote in that election and for whom he receives an address correction requested or any other postal notice which indicates that the voter is not known at the address shown on his affidavit of registration or has moved and left no forwarding address.

SEC. 5.5. 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 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. 6. Section 1006 of the Elections Code is amended to read:

1006. Any printed application, which is to be distributed to voters for requesting absent voter ballots, shall contain spaces for the following:

(a) The printed name and residence address of the voter.

(b) The address to which the ballot is to be mailed.

(c) The voter's signature.

(d) The name and date of the election for which the request is to be made.

(e) The date the application must be received by the clerk.

SEC. 6.1. Section 1006 of the Elections Code is amended to read:

1006. Any printed application, which is to be distributed to voters for requesting absent voter ballots, shall contain spaces for the following:

(a) The printed name and residence address of the voter.

(b) The address to which the ballot is to be mailed.

(c) The voter's signature.

(d) The name and date of the election for which the request is to be made.

(e) The date the application must be received by the clerk.

In addition, the application shall provide the voters with information concerning the procedure for establishing permanent absentee voter status, and the basis upon which permanent absentee voter status is claimed.

SEC. 7. Section 1017 of the Elections Code is amended to read:

1017. After the close of the period for requesting absent voter ballots by mail any voter unable to go to the polls because of illness or disability resulting in his or her confinement in a hospital, sanatorium, nursing home, or place of residence, or any voter unable because of a physical handicap to go to his or her polling place or because of such handicap is unable to vote at his or her polling place due to existing architectural barriers at his or her polling place denying him or her physical access to the polling place, voting booth, or voting apparatus or machinery, or any voter unable to go to his or her polling place because of conditions resulting in his or her absence from the precinct on election day may request in a written statement, signed under penalty of perjury that a ballot be delivered to him or her. This ballot shall be delivered by the elections official to any authorized representative of the voter who presents this written statement to the official.

Before delivering the ballot the official may compare the signature on the request with the signature on the voter's affidavit of registration, but in any event, the signature shall be compared before the absent voter ballot is canvassed.

The voter shall mark the ballot, place it in the identification envelope, fill out and sign the envelope and return the ballot, personally or through the authorized representative, to either the elections official or any polling place within the jurisdiction.

These ballots shall be processed and counted in the same manner as other absentee ballots.

SEC. 8. Section 1103 of the Elections Code is amended to read:

1103. The envelope into which a new resident is to place the ballot shall bear upon its face the name and official title of the county elections official and upon the other side a printed affidavit in substantially the following form:

State of California }
County of _____ } ss.

I, _____, declare that I am a citizen of the United States, that on the day of the next election for federal offices shall be at least 18 years of age, a resident of this state prior to the election, and am a resident of the City or Town of _____, County of _____, State of California; I have not voted, nor shall I cast a vote on a ballot from the state from which I have removed.

I declare under penalty of perjury that the foregoing is true and correct and that I executed this declaration on _____ at _____
(Date) (County of Signing)

_____
(Signature)

_____
(Residence address)

SEC. 9. Section 1638 of the Elections Code is amended to read:

1638. The clerk, not less than 29 days prior to an election, shall issue an order appointing the members of the several precinct boards and designating the polling places.

SEC. 10. Section 3578 of the Elections Code is amended to read:

3578. (a) The Secretary of State shall mail ballot pamphlets to voters, in those instances in which the county clerk uses data-processing equipment to store the information set forth in the affidavits of registration, before the election at which measures contained in the ballot pamphlet are to be voted on. The mailing shall commence not more than 40 days before the election and shall be completed no later than 21 days before the election for those voters who registered on or before the 60th day before the election. The Secretary of State shall mail one copy of the ballot pamphlet to each registered voter at the postal address stated on the voter's affidavit of registration, or the Secretary of State may mail only one ballot pamphlet to two or more registered voters having the same surname and the same postal address.

(b) In those instances in which the county clerk does not utilize data-processing equipment to store the information set forth in the affidavits of registration, the Secretary of State shall furnish ballot pamphlets to the county clerk not less than 45 days before the election at which measures contained in the ballot pamphlet are to be voted on and the county clerk shall mail ballot pamphlets to voters, on the same dates and in the same manner provided by

subdivision (a).

(c) The Secretary of State shall provide for the mailing of ballot pamphlets to voters registering after the 60th day before the election and before the 28th day before the election, by either: (1) mailing in the manner as provided in subdivision (a), or (2) requiring the county clerk to mail ballot pamphlets to those voters registering in the county after the 60th day before the election and before the 28th day before the election pursuant to the provisions of this section. The second mailing of ballot pamphlets shall be completed no later than 10 days before the election. The county clerk shall mail a ballot pamphlet to any person requesting a ballot pamphlet. Three copies, to be supplied by the Secretary of State, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the voters.

SEC. 11. Section 3709 of the Elections Code is amended to read:

3709. If the initiative petition is signed by voters not less in number than 20 percent of the entire vote cast within the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the board of supervisors shall either:

(a) Pass the ordinance without alteration at the regular meeting at which it is presented and within 10 days after it is presented.

(b) Immediately call a special election at which the ordinance, without alteration, shall be submitted to a vote of the voters of the county.

SEC. 12. Section 3711 of the Elections Code is amended to read:

3711. If the initiative petition is signed by voters not less in number than 10 percent of the entire vote cast in the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the board of supervisors, the ordinance, without alteration, shall be submitted by the board to the voters at the next statewide election occurring not less than 88 days after the date of the order.

SEC. 13. Section 6653.3 of the Elections Code is amended to read:

6653.3. Notwithstanding Sections 6653 and 6659, any candidate who has been nominated at any primary election for superior court judge in which election there were at least two other candidates, and who has, after the date prescribed for the filing of declaration of candidacy pursuant to Article 4 (commencing with Section 6489) of this chapter, been appointed to any federal or state office may request the county clerk to have his or her name removed from the ballot of the next ensuing general election. If such request is received by the county clerk at least 59 days before the next ensuing general election, the county clerk shall remove such candidate's name from

the ballot.

If a candidate's name is removed from the ballot pursuant to this section, the two remaining candidates who received the highest number of votes cast on all the ballots of all the voters participating in the primary election for nomination for that office of superior court judge, shall be the candidates for that office at the ensuing general election, and their names as candidates for that office shall be placed on the official ballot at the ensuing election.

SEC. 14. Section 6834 of the Elections Code is amended to read:

6834. Each signer of a nomination paper shall sign but one paper for the same office, except that in case two or more persons are to be elected to the same office at the same election, an elector may sign the nomination papers of as many persons as there are persons to be elected to the office, and such act on the part of an elector shall not be deemed in conflict with the signer's statement prescribed in this chapter.

The signer shall state his place of residence, giving his street and number, if any.

SEC. 15. Section 10213 of the Elections Code is amended to read:

10213. The order of precedence of offices on the ballot shall be as listed below for those offices and measures which apply to the election for which this ballot is provided. Beginning in the column to the left:

(a) Under the heading, PRESIDENT AND VICE PRESIDENT:

(1) Nominees of the qualified political parties and independent nominees for President and Vice President.

(b) Under the heading, PRESIDENT OF THE UNITED STATES:

(1) Names of the presidential candidates to whom the delegates are pledged.

(2) Names of chairmen of unpledged delegations.

(c) Under the heading, STATE:

(1) Governor

(2) Lieutenant Governor

(3) Secretary of State

(4) Controller

(5) Treasurer

(6) Attorney General

(7) Member, State Board of Equalization

(d) Under the heading, UNITED STATES SENATOR: Candidates or nominees to the United States Senate

(e) Under the heading, UNITED STATES REPRESENTATIVE: Candidates or nominees to the House of Representatives of the United States

(f) Under the heading, STATE SENATOR: Candidates or nominees to the State Senate

(g) Under the heading, MEMBER OF THE STATE ASSEMBLY: Candidates or nominees to Assembly membership

(h) Under the heading, COUNTY COMMITTEE: Members of County Central Committee

(i) Under the heading, JUDICIAL:
(1) Chief Justice of California
(2) Associate Justice of the Supreme Court
(3) Presiding Justice, Court of Appeal
(4) Associate Justice, Court of Appeal
(5) Judge of the Superior Court
(6) Judge of the Municipal Court
(7) Judge of the Justice Court
(8) Marshal
(9) Constable
(j) Under the heading, SCHOOL:
(1) State Superintendent of Public Instruction
(2) County Superintendent of Schools
(3) County Board of Education Members
(4) College District Governing Board Members
(5) Unified District Governing Board Members
(6) High School District Governing Board Members
(7) Elementary District Governing Board Members
(k) Under the heading, COUNTY:
(1) County Supervisor
(2) Other offices in alphabetical order by the title of the office.
(*l*) Under the heading, CITY:
(1) Mayor
(2) Member, City Council
(3) Other offices in alphabetical order by the title of the office.
(m) Under the heading, DISTRICT:

Directors or trustees for each district in alphabetical order according to the name of the district.

(n) Under the heading, MEASURES SUBMITTED TO VOTE OF VOTERS and the appropriate heading from subdivisions (a) through (m), above, ballot measures in the order, state through district shown above, and within each jurisdiction, in the order prescribed by the official certifying them for the ballot.

In order to allow for the most efficient use of space on the ballot in counties which use a voting system, as defined in Section 15009, the county clerk may vary the order of subdivisions (j), (k), (l), and (m) as well as the order of offices within these subdivisions; provided, however, that the office of State Superintendent of Public Instruction shall always precede any school, county, or city office.

SEC. 16. Section 14218 of the Elections Code is amended to read:

14218. The ground for challenge set forth in subdivision (b) of Section 14216 shall not apply to any person duly registered as a voter in any precinct in California and removing from that precinct within 28 days prior to an election.

SEC. 17. Section 14238 of the Elections Code is amended to read:

14238. When marking a ballot, the voter shall use the stamp or other marking device to place a mark in the voting square, rectangle, or other specific voting space following the name of every candidate for whom the voter intends to vote. This mark shall be counted as

a vote for that person. A vote for a candidate or person whose name is not printed on the ballot, may be cast by writing in a name for that office in the blank space left for that purpose. Only a vote cast for a qualified write-in candidate shall be counted.

SEC. 18. Section 14239 of the Elections Code is amended to read:

14239. Where two or more candidates for the same office are to be elected, and the voter desires to vote for candidates for that office, the voter shall, by using the provided marking device, place a mark in the voting square, rectangle, or other specific voting space following the names of the candidates for that office for whom the voter intends to vote, not exceeding, however, the number of candidates to be elected.

SEC. 19. Section 17121 of the Elections Code is amended to read:

17121. Except as to presidential electors, the Secretary of State shall, not later than the 39th day after the election, compile the returns for:

(a) All candidates for statewide office.

(b) All candidates for:

(1) The Assembly.

(2) The State Senate.

(3) Congress.

(4) The State Board of Equalization.

(5) Judicial offices, except judges of an inferior court.

(c) All statewide measures.

The Secretary of State shall make out, certify, and file a statement of the vote from the compiled returns.

SEC. 20. Section 22003 of the Elections Code is amended to read:

22003. The governing body of any city or district may by resolution request the board of supervisors of the county to permit the county clerk to render specified services to the city or district relating to the conduct of an election. Subject to approval of the board of supervisors, such services shall be performed by the county clerk.

The resolution of the governing body of the city or district shall specify the services requested.

Any city which requests the board of supervisors to permit the county clerk to prepare the city's election materials shall, if the board of supervisors agrees to provide such services, supply the county clerk with a list of its precincts, or consolidated precincts, as applicable, no later than 61 days before the election.

Unless other arrangements satisfactory to the county have been made, the city or district shall reimburse the county in full for the services performed upon presentation of a bill to the city or district.

SEC. 21. Section 23528 of the Elections Code is amended to read:

23528. At least 89 days prior to the day fixed for the general district election, the county clerk shall do all of the following:

(a) Establish a convenient number of election precincts within the affected county.

(b) Define the precinct boundaries.

(c) Designate a polling place for each precinct.

(d) Appoint for each precinct one inspector, one or more judges and one or more clerks who shall constitute a precinct board for the precinct. Each precinct board member shall be a voter of the precinct for which the member is appointed and a voter of a precinct situated in the same general area.

(e) Notify the members of each precinct board of their appointment and the location of the precinct and polling place where they will serve.

The county clerk, in establishing precincts and defining their boundaries, shall, to the extent practicable, provide for a single polling place where a voter entitled to vote in more than one registered voter district may cast all of his ballots.

In a landowner voting district, the county clerk shall designate the polling place at which a nonresident landowner shall vote.

SEC. 22. Section 25301 of the Elections Code is amended to read:

25301. Except in the case of a judicial office filled in accordance with subdivision (d) of Section 16 of Article VI of the Constitution, every candidate for a judicial office, not more than 14 nor less than five days prior to the first day on which his nomination papers may be circulated and signed or may be presented for filing, shall file in the office of the county clerk in which his nomination papers are required to be filed or left for examination, a written and signed declaration in duplicate of his intention to become a candidate for that office on a form to be supplied by the county clerk. A candidate for a numerically designated judicial office shall state in his declaration for which office he intends to become a candidate. A copy of each declaration of intention filed in accordance with this article, except those for municipal and justice court offices, shall be immediately forwarded by the county clerk to the Secretary of State. This section shall apply to all judicial offices whether numerically designated or not.

SEC. 23. Section 25500 of the Elections Code is amended to read:

25500. (a) Each candidate for a party nomination for the office of State Senator or Member of the Assembly at the direct primary election shall file a written and signed declaration of his intention to become a candidate for his party's nomination for that office. The declaration of intention shall be filed with either the Secretary of State or the clerk of the county in which the candidate is a resident. The declaration of intention shall be filed, on a form to be supplied by the county clerk or registrar of voters, not more than 14 nor less than 5 days prior to the first day on which his nomination papers may be presented for filing; provided, however, if the incumbent fails to file a declaration of intention by the end of such period, persons other than the incumbent may file declarations of intention no later than the first day for filing nomination papers. The declaration of intention provided for in this section shall be in substantially the following form:

I hereby declare my intention to become a candidate for the

_____.

(Name of political party)

Party's nomination for the office of

_____

(Name of office and district)

at the direct primary election.

_____

(Signature of candidate)

_____

(Address of candidate)

(b) No person may be a candidate nor have his name printed upon any ballot as a candidate for a party nomination for the office of State Senator or Member of the Assembly at the direct primary election unless he has filed the declaration of intention provided for in this section; provided, however, that if the incumbent of the office files a declaration of intention, but for any reason fails to qualify for nomination for the office by the last day prescribed for the filing of nomination papers, an additional five days shall be allowed for the filing of nomination papers for the office, and any person, if otherwise qualified, may file nomination papers for the office during the extended period, notwithstanding that he has not filed a written and signed declaration of intention to become a candidate for the office as provided in subdivision (a) of this section.

SEC. 24. Section 27211 of the Elections Code is amended to read:

27211. The number of qualified signatures required in order to qualify a recall for the ballot shall be as follows:

(a) In the case of an officer of a city, county, school district, community college district, county board of education, or resident voting district, the number of signatures shall be equal in number to not less than the following percent of the registered voters in the electoral jurisdiction:

(1) Thirty percent if the registration is less than 1,000.

(2) Twenty-five percent if the registration is less than 10,000 but at least 1,000.

(3) Twenty percent if the registration is less than 50,000 but at least 10,000.

(4) Fifteen percent if the registration is less than 100,000 but at least 50,000.

(5) Ten percent if the registration is 100,000 or above.

The number of registered voters shall be calculated as of the time of the last report of registration by the county clerk to the Secretary of State made prior to publication of the notice of intention to circulate recall petitions against the officer that is the subject of the recall.

(b) In the case of a state officer, including judges of courts of appeal and trial courts, the number of signatures shall be as provided

for in Section 14(b) of Article II of the Constitution. In the case of a judge of a superior, municipal, or justice court, which office has never appeared on the ballot since its creation, or did not appear on the ballot at its last election pursuant to Section 25304, the number of signatures shall be as provided in Section 14(b) of Article II of the Constitution except that the percent shall be based on the number of votes cast for the countywide office which had the least number of votes in the most recent general election in the county in which the judge holds his office.

(c) In the case of a landowner voting district, signatures of voters owning at least 10 percent of the assessed value of land within the electoral jurisdiction of the officer sought to be recalled.

SEC. 25. Section 29710 of the Elections Code is amended to read:

29710. As used in this chapter, "proponent or proponents of an initiative or referendum measure" means, for statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he prepare a title and summary of the chief purpose and points of the proposed measure; or for other initiative and referendum measures, the person or persons who publish a notice or intention to circulate petitions, or, where publication is not required, who file petitions with the clerk or legislative body.

SEC. 26. It is the intent of the Legislature, if this bill and Assembly Bill No. 350 are both chaptered and amend Section 1006 of the Elections Code, and this bill is chaptered after Assembly Bill No. 350, that the amendments to Section 1006 proposed by both bills be given effect and incorporated in Section 1006 in the form set forth in Section 6.1 of this act. Therefore, Section 6.1 of this act shall become operative only if this bill and Assembly Bill No. 350 are both chaptered, both amend Section 1006, and Assembly Bill No. 350 is chaptered before this bill, in which case Section 6 of this act shall not become operative.

SEC. 27. 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 1167

An act to amend Section 30233 of the Public Resources Code, relating to coastal resources.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 30233 of the Public Resources Code is amended to read:

30233. (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities.

(5) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource-dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already

developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

(d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

CHAPTER 1168

An act to amend Section 9505 of, and to add Section 6370.5 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 6370.5 is added to the Revenue and Taxation Code, to read:

6370.5. (a) This section applies to nonprofit associations and equivalent organizations performing auxiliary services to any city or county museum in the state, which are authorized to operate within the museum by the governing authority of the museum and have held an annual rummage sale for at least five consecutive years immediately preceding the sale referred to in subdivision (b).

(b) An organization described in subdivision (a) is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, tangible personal property which it sells at an annual rummage sale; provided, the profits are used exclusively in furtherance of the purposes of the organization.

(c) This section shall not be applicable to the state or any of its political subdivisions.

SEC. 2. Section 9505 of the Revenue and Taxation Code is amended to read:

9505. After deducting its cost in administering the tax, the State

Board of Equalization shall transmit the net revenues to the county periodically as promptly as possible for distribution in accordance with the allocation agreement between the county and cities. The transmittals from the Board of Equalization to counties and the transmittal from counties to cities shall be made at least twice in each calendar quarter.

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.

CHAPTER 1169

An act to amend Section 13531.5 of the Business and Professions Code, relating to the sale of petroleum products.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 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 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) 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.

(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. 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. 3. It is the intent of the Legislature, if this bill and Assembly Bill 3373 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 Assembly Bill 3373, 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 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill 3373 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

Assembly Bill 3373, in which case Section 1 of this act shall not become operative.

CHAPTER 1170

An act to amend Section 56261.1 of the Government Code, relating to districts.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 56261.1 of the Government Code is amended to read:

56261.1. (a) If a majority of the members of each of the legislative bodies of two or more districts adopt substantially similar resolutions of application making proposals either for the consolidation of all the districts or for the reorganization of all or any part of the districts into a single district, the commission shall approve, or conditionally approve, the proposal. The commission shall authorize the board of supervisors to order the consolidation or reorganization without an election, except as otherwise provided in subdivision (b). The board of supervisors shall hold at least one noticed public hearing on the proposal within 30 days after approval of the application by the commission.

(b) An election shall only be held if the board of supervisors finds either of the following:

(1) In the case of a resident-voter district, that the territory is uninhabited, or in the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization, owning at least 25 percent of the assessed value of land therein.

(2) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:

(i) At least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization who own at least 25 percent of the assessed value of land therein.

(ii) At least 25 percent of the voters entitled to vote as a result of residing within or owning land within such territory.

The petition shall be filed with the board of supervisors within 30 days after the public hearing required by subdivision (a) has been held. If a petition has been filed, the board of supervisors shall approve the proposal subject to confirmation by the voters of the district pursuant to Sections 56386 and 56440.

(c) Before ordering any material change in the provisions or the terms and conditions of the consolidation or reorganization, as set forth in the proposals of the districts, the commission shall direct the executive officer to give each district mailed notice thereof. The commission shall not, without the written consent of all districts, take any further action on the consolidation or reorganization for 30 days following such mailing. Upon written demand by any of the districts, filed with the executive officer during that 30-day period, the commission shall make determinations upon the proposals only after notice and hearing thereon. If no such demand is filed, the commission may make such determinations without notice and hearing.

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 1171

An act to amend Sections 40420, 40424, and 40426 of the Health and Safety Code, relating to the South Coast Air Quality Management District.

[Approved by Governor September 17, 1982 Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 40420 of the Health and Safety Code is amended to read:

40420. The district shall be governed by a district board consisting of 14 members appointed as follows:

(a) Two members appointed by the Board of Supervisors of the County of Los Angeles, who shall be members of the board of supervisors.

(b) One member of the City Council of Los Angeles appointed by the Mayor of Los Angeles.

(c) One member of any city council, except the City Council of Los Angeles, in the portion of the County of Los Angeles included within the south coast district appointed by a committee consisting of the members of the city selection committee from that portion of the county.

(d) Two members appointed by the Board of Supervisors of the County of Orange, who shall be members of the board of supervisors.

(e) One member appointed by each of the other boards of supervisors of the counties included, in whole or in part, within the

south coast district, which member shall be a member of the appointing board of supervisors.

(f) One member of any city council in the County of Orange appointed by the city selection committee of that county.

(g) One member of any city council in that portion of the County of San Bernardino included within the south coast district appointed by a committee consisting of the members of the city selection committee from that portion of the county.

(h) One member of any city council in that portion of the County of Riverside included within the south coast district appointed by a committee consisting of the members of the city selection committee from that portion of the county.

(i) Three public members appointed as follows:

(1) One member appointed by the Governor, with the advice and consent of the Senate.

(2) One member appointed by the Senate Rules Committee.

(3) One member appointed by the Speaker of the Assembly.

The public members shall be residents of the district and may be elected public officials, and shall have demonstrated interest or expertise in the field of air pollution control.

SEC. 2. Section 40424 of the Health and Safety Code is amended to read:

40424. Eight members of the south coast district board shall constitute a quorum, and no official action shall be taken by the south coast district board except in the presence of a quorum and upon the affirmative votes of at least eight members of the south coast district board.

SEC. 3. Section 40426 of the Health and Safety Code is amended to read:

40426. Each member of the south coast district board shall receive a compensation of one hundred dollars ($100) for each day, or portion thereof, but not to exceed five hundred dollars ($500) in any month, attending meetings of the south coast district board or committees thereof or, upon authorization of the south coast district board, while on official business of the south coast district, and his actual and necessary expenses incurred in performing his official duties.

A member of the south coast district board who is also a member of a board of supervisors or of the City Council of Los Angeles may appoint an alternate member. All members shall attend at least 50 percent of the regularly scheduled meetings of the south coast district board or shall be replaced.

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 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 1172

An act to amend Section 2913 of the Business and Professions Code, and to amend and repeal Section 1204.1 of the Health and Safety Code, relating to health.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 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 Section 1204.1 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 has completed at least one fully matriculated year of graduate training in psychology from an accredited or approved university, college, or professional school. In addition, on or before January 1, 1983, that person shall maintain registration as a "psychological assistant," and to be entitled to use that title, shall have completed all requirements for a master's degree from an accredited or approved university, college, or professional school. On and after January 1, 1980, a master's degree in (1) psychology, or (2) education with the field of specialization in psychology or counseling psychology from an accredited or approved university, college, or professional school shall be required of all new registrants as psychology assistants.

(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 1204.1 of the Health and Safety Code is amended to read:

1204.1. In addition to the primary care clinics and specialty clinics specified in Section 1204, clinics eligible for licensure pursuant to this chapter include psychology clinics. A "psychology clinic" is a clinic which provides psychological advice, services, or treatment to patients, under the direction of a clinical psychologist as defined in Section 1316.5, and is operated by a tax-exempt nonprofit corporation which is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds, or contributions which may be in the form of money, goods, or services. In a psychology clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal taxation under paragraph (3), subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, shall operate a psychology clinic.

Each psychology clinic licensed pursuant to this section shall comply with the provisions of Part 2 (commencing with Section 13100) of Division 12.

Only a psychology clinic may be licensed under this chapter to exclusively provide psychological advice, services, or treatment. However, nothing in this subdivision precludes clinics specified in Section 1204 from providing psychological advice, services, or treatment as included within, or adjunctive to, medical advice, services, or treatment provided by such clinics. Failure to comply with the requirements of this section may be grounds for denial, revocation, or suspension of the license.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is

chaptered on or before January 1, 1988, deletes or extends such date.

CHAPTER 1173

An act to amend Section 43204 of, and to add Section 43009.5 to, the Health and Safety Code, relating to motor vehicle warranties.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 43009.5 is added to the Health and Safety Code, to read:

43009.5. (a) If, based on a review of information derived from a statistically valid and representative sample of vehicles, the state board determines that a substantial percentage of any class or category of vehicles certified under the optional standards of Section 43101.5, and of Section 1960.15 of Title 13 of the California Administrative Code, exhibits, prior to 75,000 miles or seven years, whichever occurs first, an identifiable, systematic defect in a component listed in paragraph (2) of subdivision (c) of Section 1960.15, which causes a significant increase in emissions above those exhibited by vehicles free of defects and of the same class or category and having the same period of use and mileage, the state board may invoke its enforcement authority under Section 43105 to require remedial action by the vehicle manufacturer. The remedial action shall be limited to owner notification and repair or replacement of the defective component. As used in this section, the term "defect" shall not include failures which are the result of abuse, neglect, or improper maintenance.

(b) Nothing in this section shall limit or otherwise affect the recall authority of the state board, except as provided in subdivision (a).

SEC. 2. Section 43204 of the Health and Safety Code is amended to read:

43204. (a) The manufacturer of each motor vehicle and each motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that the motor vehicle or motor vehicle engine is:

(1) Designed, built, and equipped so as to conform, at the time of sale, with the applicable emission standards specified in this part.

(2) Free from defects in materials and workmanship which cause such motor vehicle or motor vehicle engine to fail to conform with applicable regulations for its useful life as determined pursuant to subdivision (b).

(b) As used in subdivision (a), "useful life" of a motor vehicle or motor vehicle engine means:

(1) In the case of light-duty motor vehicles, and motor vehicle

engines used in such motor vehicles, a period of use of five years or 50,000 miles, whichever first occurs, except that, in the case of fuel metering and ignition systems and their component parts which are contained in the state board's "Emissions Warranty Parts List" dated December 14, 1978 (items I(A), I(C), III(A), III(C), III(E), IX(A), and IX(B)), and which are contained in vehicles or vehicle engines certified to the optional standards pursuant to Section 43101.5 and subject to subdivision (a) of Section 43009.5, "useful life" means a period of use of two years or 24,000 miles, whichever occurs first.

(2) In the case of any other motor vehicle or motor vehicle engine, a period of use of five years or 50,000 miles, whichever first occurs, unless the state board determines that a period of use of greater duration or mileage is appropriate.

CHAPTER 1174

An act to amend Sections 3202, 9402 and 9403 of the Commercial Code, relating to commercial transactions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1982 Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 3202 of the Commercial Code is amended to read:

3202. (1) Negotiation is the transfer of an instrument in such form that the transferee becomes a holder. If the instrument is payable to order it is negotiated by delivery with any necessary indorsement; if payable to bearer it is negotiated by delivery.

(2) An indorsement must be written by or on behalf of the holder and on the instrument or on a paper so firmly affixed thereto as to become a part thereof. An indorsement on a paper so affixed shall be valid and effective even though there is sufficient space on the instrument to write the indorsement.

(3) An indorsement is effective for negotiation only when it conveys the entire instrument or any unpaid residue. If it purports to be of less it operates only as a partial assignment.

(4) Words of assignment, condition, waiver, guaranty, limitation or disclaimer of liability and the like accompanying an indorsement do not affect its character as an indorsement.

SEC. 2. Section 9402 of the Commercial Code is amended to read:

9402. (1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing

the items, of collateral. A financing statement should include the debtor's trade name or style, if any, if known to the secured party, but a failure to include such trade name or style shall not under any circumstances affect the validity of the financing statement. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subdivision (5) of Section 9103, or when the financing statement is filed as a fixture filing (Section 9313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subdivision (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A certified copy of a financing statement or security agreement is sufficient as a financing statement if the original thereof was filed in this state.

(2) A financing statement which otherwise complies with subdivision (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in or as a fixture filing covering:

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or

(b) Proceeds under Section 9306, if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral and give the date of filing and the file number of the prior financing statement; or

(c) Collateral as to which the filing has lapsed. Such a financing statement must include a statement to the effect that the prior financing statement has lapsed and give the date of filing and the file number of the prior financing statement; or

(d) Collateral acquired after a change of name, identity or corporate structure of the debtor (subdivision (7)). Such a financing statement must include a statement that the name, identity or corporate structure of the debtor has been changed and give the date of filing and the file number of the prior financing statement and the name of the debtor as shown in the prior financing statement.

(3) A form substantially as follows is sufficient to comply with subdivision (1):

Name of debtor (or assigner) _____
Address _____
Name of secured party (or assignee) _____
Address _____
Debtor's trade name or style, if any _____

1. This financing statement covers the following types (or items) of property: (Describe) _____

2. (If collateral is crops) The above-described crops are growing or are to be grown on: (Describe real estate) _____

_____

3. (If applicable) The above goods are or are to become fixtures on* (Describe real estate) _____

_____

and this financing statement is to be recorded in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is _____

4. (If products of collateral are claimed) Products of the collateral are also covered.

(Use whichever is applicable)

_____
Signature of debtor (or assigner)

_____
Signature of secured party (or assignee)

*Where appropriate substitute either "The above timber is standing on . . . . ." or "The above mineral or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on . . . . ."

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party, or by the secured party alone in the case of an amendment pursuant to subdivision (7). An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this division, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subdivision (5) of Section 9103, or a financing statement filed as a fixture filing (Section 9313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be recorded in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner. A financing statement filed as a fixture filing (Section 9313) where the debtor is not a transmitting utility must also recite either that it is filed as a fixture filing or that it covers goods which are or are to become fixtures.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if:

(a) The goods are described in the mortgage by item or type;

and

(b) The goods are or are to become fixtures related to the real estate described in the mortgage; and

(c) The mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records; and

(d) The mortgage is duly recorded.

No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement or an appropriate amendment to the filed financing statement is filed before the acquisition of the collateral by the debtor. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. A financing statement filed as a fixture filing (Section 9313) where the debtor is not a transmitting utility is not effective if it does not recite that it is to be recorded in the real estate records and either that it is filed as a fixture filing or that it covers goods which are or are to become fixtures.

(9) A financing statement substantially complying with the requirements of this section creates a security interest only to the extent of the interest of the debtor.

(10) No person or entity acting for or on behalf of the parties to a financing statement shall incur any liability for the consequences of recording a financing statement in the real estate records, and no action may be brought or maintained against any such person or entity as a result of the recordation.

SEC. 3. Section 9403 of the Commercial Code is amended to read:

9403. (1) Presentation for filing of a financing statement, tender of the filing fee and acceptance of the statement by the filing officer constitutes filing under this division.

(2) Except as provided in subdivision (6), a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or

against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later. Upon such lapse the security interest becomes unperfected unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse. If a fixture filing is effective at the time insolvency proceedings are commenced by or against the debtor, the fixture filing remains effective until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period or termination pursuant to subdivision (6), whichever occurs later. Upon lapse of a fixture filing, it is deemed to have been ineffective as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party of record within six months prior to the expiration of the five-year period specified in subdivision (2). Any such continuation statement must be signed by the secured party of record, identify the original statement by giving the date and the names of the parties thereto and the file number thereof and state that the original statement is continued. A continuation statement filed to continue the effectiveness of a financing statement filed as a fixture filing (Section 9313) is not effective unless the following requirements are met:

(a) If the debtor did not have an interest of record in the real estate as of the date of the filing of the original statement, the continuation statement shall contain the name of a record owner of the real estate as of the date of the filing of the original statement.

(b) The continuation statement shall contain substantially the following statement: "This continuation statement is filed to continue the effectiveness of a financing statement filed as a fixture filing"; provided, that such statement shall clearly indicate the intent to continue the effectiveness of a financing statement as a fixture filing.

Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subdivision (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The filing officer may remove a lapsed financing statement and related filings from the files and destroy them immediately if he has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still

effective under subdivision (6) shall be retained. The filing officer shall not destroy a financing statement and related filings as to which he has received written notice that there is an action pending relative thereto or that insolvency proceedings have been commenced by or against the debtor.

(4) Except as provided in subdivision (7) a filing officer shall mark each financing statement with a consecutive file number and with the date and time of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statement according to the name of the debtor and shall note in the index the file number and the address of the debtor given in this statement. The filing officer shall mark each continuation statement with the date and time of filing and shall index the same under the file number of the original financing statement.

(5) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for an original financing statement, an amendment or a continuation statement shall be three dollars ($3) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be four dollars ($4).

(6) If the debtor is a transmitting utility (subdivision (5) of Section 9401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subdivision (6) of Section 9402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) A financing or continuation statement covering collateral described in paragraph (b) of subdivision (1) of Section 9401 or filed as a fixture filing shall be recorded and indexed by the filing officer in the real property index of grantors under the name of the debtor and any owner of record shown on the financing statement. A financing or continuation statement so recorded and indexed and containing a description of real property affected thereby shall constitute constructive notice from the time of its acceptance for recording to any purchaser or encumbrancer of the real property of the security interest in such collateral.

SEC. 4. Any financing statement or continuation statement to continue the effectiveness of a financing statement filed on or after July 8, 1981, which is in conformity with the requirements of Section 9402 or 9403 of the Commercial Code, as these sections are amended by this act, shall be deemed to be sufficient and effective.

SEC. 5. It is the intent of the Legislature that the amendments to Section 3202 of the Commercial Code contained in Section 1 of this act shall only be given prospective application.

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 to clarify ambiguities with respect to the filing of financing statements to perfect a security interest in property which have arisen as a result of amendments enacted by Chapter 148 of the Statutes of 1981, it is necessary that this act take effect immediately.

CHAPTER 1175

An act to amend Section 728.2 of the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 728.2 of the Public Utilities Code is amended to read:

728.2. (a) Except as provided in subdivision (b), the commission shall have no jurisdiction or control over classified telephone directories or commercial advertising included as part of the corporation's alphabetical telephone directories, including the charges for and the form and content of such advertising, except that the commission shall investigate and consider revenues and expenses with regard to the acceptance and publication of such advertising for purposes of establishing rates for other services offered by telephone corporations.

(b) If the commission determines, after a hearing, that any federal action would impair its ability to investigate and consider revenues and expenses with regard to the acceptance and publication of telephone directory advertising for the purpose of establishing rates for other services offered by any telephone corporation, the commission shall have the jurisdiction to regulate commercial advertising in alphabetical and classified directories of telephone corporations, except as provided in this subdivision.

(1) The commission's jurisdiction to regulate commercial advertising in alphabetical and classified directories of telephone corporations under this subdivision shall be limited to the rates and charges for commercial directory advertising, except that the commission shall investigate and consider revenues and expenses of telephone corporations related to that advertising for purposes of establishing rates for other services offered by telephone corporations.

(2) The commission shall also have no jurisdiction over the following:

(i) The form and content of the advertising in alphabetical and classified directories of telephone corporations.

(ii) The form and content of the directories in which that

advertising appears.

(iii) Directory advertising practices.

(iv) The determination of the geographic areas served by those directories.

(v) Complaints by any corporation or person regarding directory advertising.

(3) The commission, by its own motion or on petition of any telephone corporation, may, after a hearing, issue an order relinquishing the jurisdiction assumed under this subdivision, except its jurisdiction to investigate and consider the revenues and expenses specified in paragraph (1) if the commission determines that relinquishing the jurisdiction will not affect its ability to investigate and consider those revenues and expenses. As used in this subdivision, "federal action" means the introduction of a bill in Congress, an order of the Federal Communications Commission, or an order or decision of any federal court which would prohibit state regulatory agencies which have no jurisdiction over directory advertising from considering revenues from this source for ratemaking purposes.

SEC. 2. The Legislature declares that, for purposes of any federal action relating to commercial advertising in telephone directories, the enactment of this act shall not be construed as a limitation on the ability of the Public Utilities Commission to investigate and consider revenues and expenses related to that advertising for purposes of establishing rates for other services offered by telephone corporations.

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:

Since federal legislation, which is currently being considered by Congress, would prohibit state regulatory agencies which have no jurisdiction over directory advertising from considering revenues from this source for ratemaking purposes, it is necessary that this act take effect immediately.

CHAPTER 1176

An act to amend Sections 18620 and 18621 of, and to add Section 18738.1 to, the Business and Professions Code, relating to boxing.

[Approved by Governor September 17, 1982 Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 18620 of the Business and Professions Code is amended to read:

18620. There is in the Department of Consumer Affairs the State Athletic Commission, which consists of eight members.

Of the additional members of the commission provided for at the 1982 portion of the 1981–82 Regular Session of the Legislature, one member shall be appointed by the Governor, one member shall be appointed by the Senate Rules Committee, and one member shall be appointed by the Speaker of the Assembly. Thereafter, vacancies shall be filled by appointment by the appointing power of the successor to the office in a manner so that six members are appointed by the Governor, one member by the Senate Rules Committee, and one member by the Speaker of the Assembly.

The State Athletic Commission succeeds to and is vested with the duties, powers, purposes, responsibilities and jurisdiction of the Division of Athletics and of the officers and employees of that division.

Notwithstanding the provisions of Section 1322 of the Government Code, the additional members of the commission provided for by the amendments to this section enacted at the 1982 portion of the 1981–82 Regular Session of the Legislature shall not require the confirmation of the Senate.

SEC. 2. Section 18621 of the Business and Professions Code is amended to read:

18621. Members of the commission shall be appointed for a four-year term.

Vacancies occurring shall be filled by appointment in the same manner for the unexpired term.

SEC. 3. Section 18738.1 is added to the Business and Professions Code, to read:

18738.1. (a) All gloves used by contestants in amateur and professional boxing contests, matches, or sparring exhibitions shall be constructed in such a manner that:

(1) The thumb is not detached from the glove where injury could result.

(2) The padding, shall be consistent with the best available material and technology in order to reduce the cumulative effects of repetitive impacts.

(b) Where all professional or amateur boxing contests or sparring exhibitions are performed, the ring floor and padding shall meet the following specifications or contain similar or superior material:

(1) The ring floor shall be constructed of 1¼ inch plywood.

(2) The ring floor padding shall be of 1¾ inch thickness consisting of closed cellular plastic foam in combination with high density polyvinylchloride (PVC) bonded together in solid sections.

(c) The commission shall, by administrative regulation, establish by January 1, 1984, standards for a safety boxing glove which shall be consistent with the requirements of subdivision (a). Commencing January 1, 1984, the commission shall require the use of that safety

glove in all amateur and professional boxing contests and exhibitions held within this state.

(d) The commission may, by regulation, exempt title fights from the requirements of this section.

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 1177

An act to add Section 14780.7 to the Government Code, relating to state research contracts.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 14780.7 is added to the Government Code, to read:

14780.7. (a) When contracting for research services, except for agricultural or medical research services, a state agency shall, at the same time requests for proposals to perform the research services are circulated to members of the private sector, circulate requests for proposals to perform the research services to the officer responsible for research contracts at each campus of the University of California and the California State University, for distribution to the faculty. If any faculty members are interested in the request, the officer shall notify the agency within two weeks from the date on which the request was circulated.

(b) Faculty members interested in the request shall submit their proposals to perform the research services to the agency within 30 days from the date on which the request was circulated.

(c) The provisions of this section shall not apply to any research project relating to postsecondary education which, as determined by the agency, involves a conflict of interest, nor to any contract for research services entered into by the California Postsecondary Education Commission.

CHAPTER 1178

An act to amend Sections 35150, 35229.5, 54784, and 54790 of, to amend and repeal Section 35051 of, to add Section 35105 to, and to add and repeal Sections 35150.5 and 56250.5 of, the Government Code, relating to cities.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 35051 of the Government Code is amended to read:

35051. "Urban service area" means existing developed, undeveloped, or agricultural land, either incorporated or unincorporated, within a city's sphere of influence, which is currently served by existing urban facilities, utilities, and services or are proposed to be served by urban facilities, utilities, and services in the first five years of a city's adopted capital improvement program. The boundary around such an urban area shall be called the "urban service area boundary" and shall be developed in cooperation with a city and adopted by a commission pursuant to policies adopted by the commission in accordance with Sections 54774 and 54774.5.

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. Section 35105 is added to the Government Code, to read:

35105. The conducting authority may establish a schedule of processing fees for the estimated expenses of complying with procedures required or authorized by this chapter or local ordinance. The fees shall not exceed the amount reasonably required by the conducting authority to so comply. Notification of the fee schedule shall be given to the chief petitioners. The processing fee shall be deposited with the conducting authority after the adoption of a resolution initiating proceedings by the conducting authority. The deposit of the processing fee shall be made within such period as the conducting authority may specify. No further action shall be taken upon the resolution until the processing fee is deposited.

SEC. 3. Section 35150 of the Government Code, as amended by Section 1.5 of Chapter 855 of the Statutes of 1981, is amended to read:

35150. The commission shall have the powers and duties set forth in Chapter 6.6 (commencing with Section 54773) of Part 1, Division 2, Title 5, and such additional powers and duties as are specified in this part, including the following:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for the incorporation of cities, for changes of organization of cities, and

municipal reorganizations; provided, however, that a commission shall not have the power to disapprove an annexation, initiated by resolution, of contiguous territory which the commission finds is either (1) surrounded or substantially surrounded by the city to which the annexation is proposed or by such city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 35046, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city or, (2) located within an urban service area which has been delineated and adopted by a commission, which is not prime agricultural land, as defined in Section 35046, and is designated for urban growth by the general plan of the annexing city.

As a condition to the annexation of an area, which is surrounded or substantially surrounded by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this chapter, that the annexation include the entire island of surrounded or substantially surrounded territory.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city, or with regard to a proposal for municipal reorganization which includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or municipal reorganization, is inhabited or uninhabited. Such determination shall be based on the definitions of "inhabited territory" contained in Section 35038.

(c) With regard to a proposal for consolidation of two or more cities, to determine which city shall be the consolidated, successor city.

(d) To adopt standards and procedures for the evaluation of plans for providing municipal services submitted pursuant to Section 35102.

(e) To waive the restrictions of Section 35010, if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed as a result of incorporation or annexation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(f) To approve the annexation of unincorporated, noncontiguous territory not exceeding 160 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes; and to authorize the conducting authority to annex such territory without notice or hearing.

(g) Subject to the provisions of Section 35031, to designate in the resolution making determinations the conducting authority for proceedings.

(h) When a municipal reorganization includes the annexation of inhabited territory to a city and the assessed value of land within such territory equals one-half or more of the assessed value of land within

the city, or the number of registered voters residing within such territory equals one-half or more of the number of registered voters residing within the city, to determine as a condition of the reorganization that the reorganization shall also be subject to confirmation by the voters in an election to be called, held, and conducted within the territory of the city to which annexation is proposed.

(i) With respect to the incorporation of a new city, to determine the number of inhabitants or the number of registered voters residing within the proposed city.

Except as otherwise provided in this part, such powers and duties shall be exercised in accordance with the provisions of Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5. To the extent of any inconsistency between Chapter 6.6 and this part, the provisions of this part shall control.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 4. Section 35150.5 is added to the Government Code, to read:

35150.5. (a) Notwithstanding any other provision of this part, the commission shall not have any authority to review an annexation to any city in Santa Clara County of unincorporated territory which is within the urban service area of the city if the annexation is initiated by resolution of the legislative body of the city within two years after the date upon which the urban service area is delineated and adopted by the commission.

(b) The legislative body of the city shall be the conducting authority for the annexation and the proceedings for the annexation shall be initiated and conducted as nearly as may be practicable in accordance with Article 2 (commencing with Section 35220) of Chapter 3.

The legislative body of the city, in adopting the resolution approving the annexation, shall make the following findings:

(1) That the unincorporated territory is within the city's urban service area as adopted by the commission.

(2) That the county surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the commission's road annexation policies.

(3) That the proposal does not split lines of assessment or ownership.

(4) That the proposal does not create islands or areas in which it would be difficult to provide municipal services.

(5) That the proposal is consistent with the city's adopted general plan.

(6) That the territory is contiguous to existing city limits.

(c) All annexations which involve territory for which the land use designation in the city's general plan has changed from the time that the city's urban service area was last adopted by the commission, and

which are processed by a city pursuant to this section shall be subject to an appeal to the commission upon submission of a petition of appeal, signed by at least 50 registered voters in the county .

(d) An appeal to the commission may also be made by submission of a resolution of appeal adopted by the legislative body of a special district solely for the purpose of determining whether some or all of the territory contained in the annexation proposal should also be annexed or detached from that special district.

(e) Any petition under subdivision (c) or resolution under subdivision (d) shall be submitted to the executive officer of the commission within 15 days of the adoption by the legislative body of the city of the resolution approving the annexation. The executive officer of the commission shall schedule the hearing for the next regular meeting of the commission as is practicable. The commission may set a reasonable appeal fee.

At the appeal hearing the commission may reject the resolution approving the annexation and disapprove the annexation, or it may affirm the resolution and approve the annexation wholly, partially, or conditionally.

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. 5. Section 35229.5 of the Government Code is amended to read:

35229.5. (a) Notwithstanding the provisions of Sections 35228 and 35229 the conducting authority, not more than 30 days after conclusion of a hearing to detach inhabited or uninhabited territory, may by resolution, terminate such proceedings to detach territory.

(b) Notwithstanding the provisions of Sections 35307, 35308, and 35309, the conducting authority, not more than 30 days after conclusion of a hearing on a proposed inhabited or uninhabited municipal reorganization which includes the detachment of territory from any city, shall terminate the proceedings for the proposed municipal reorganization if a resolution or written protest against the proposed municipal reorganization is filed prior to the conclusion of such hearing by any city from which any portion of the territory of the city would be detached or otherwise removed pursuant to the proposed municipal reorganization.

(c) The provisions of subdivision (b) of this section shall not apply to any proceedings initiated by petition for which the executive officer of the commission, on or before May 1, 1978, has issued a certificate of sufficiency pursuant to Section 35118.

SEC. 6. Section 54784 of the Government Code is amended to read:

54784. In each county containing two or more cities, regular and alternate city members to the commission shall be appointed by the city selection committee organized in the county pursuant to and in the manner provided in Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5. Regular members of

the commission shall be appointed by the city selection committee pursuant to Section 54780 or 54780.1.

The city selection committee shall appoint one alternate member to the commission in the same manner as it appoints a regular member. If one of the regular city members is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, or is automatically disqualified from participating therein pursuant to this section, the alternate member is authorized to serve and vote in his or her place for that meeting. Except in the case of counties with not more than two cities where a local commission's rules and regulations authorize members' participation pursuant to Section 54784.1, when the commission is considering a proposal for the annexation of territory to a city of which one of the members of the commission is an officer, the member is disqualified from participating in the proceedings of the commission with respect to the proposal and the alternate member shall serve and vote in his or her place for such purpose.

Except in the case of a member appointed pursuant to subdivision (d) of Section 54780.1 or subdivision (b) of Section 54780.2, a city selection committee, may, at the time it appoints a member or alternate, provide that such member or alternate is disqualified from voting on annexations to the city of which such member is a representative.

In the event the office of a regular city member becomes vacant the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular city member to fill the vacancy.

SEC. 6.5. Section 54784 of the Government Code is amended to read:

54784. In each county containing two or more cities, regular and alternate city members to the commission shall be appointed by the city selection committee organized in the county pursuant to and in the manner provided in Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5. Regular members of the commission shall be appointed by the city selection committee pursuant to Section 54780, 54780.1, or 54780.2.

The city selection committee shall appoint one alternate member to the commission in the same manner as it appoints a regular member. If one of the regular city members is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, the alternate member is authorized to serve and vote in place of that regular city member for that meeting.

Except in the case of a member appointed pursuant to subdivision (d) of Section 54780.1 or subdivision (b) of Section 54780.2, a city selection committee, may, at the time it appoints a member or alternate, provide that such member or alternate is disqualified from voting on annexations to the city of which such member is a representative.

In the event the office of a regular city member becomes vacant

the alternate member is authorized to serve and vote in place of that regular city member until the appointment and qualification of a regular city member to fill the vacancy.

SEC. 7. Section 54790 of the Government Code, as amended by Section 3 of Chapter 855 of the Statutes of 1981, is amended to read:

54790. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for:

(1) The incorporation of cities.

(2) The formation of special districts.

(3) The annexation of territory to local agencies, (other than local agencies the annexation of territory to which is required to be made pursuant to the provisions of Division 1 (commencing with Section 56000) of Title 6); provided, however, that a commission shall not have the power to disapprove an annexation, initiated by resolution, of contiguous territory which the commission finds is either (1) surrounded or substantially surrounded by the city to which the annexation is proposed or by such city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 35046, and is designated for urban growth by the general plan of the annexing city or, (2) located within an urban service area which has been delineated and adopted by a commission, which is not prime agricultural land, as defined in Section 35046 and is designated for urban growth by the general plan of the annexing city. A commission shall not impose any conditions which would directly regulate land use, property development, or subdivision requirements. When the development purposes are not made known to the annexing agency, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing agency. Nothing in this paragraph, however, shall be construed as prohibiting a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed provided that the commission shall not specify how, or in what manner, the territory shall be prezoned.

(4) The exclusion of territory from a city.

(5) The disincorporation of a city.

(6) The consolidation of two or more cities.

(7) The development of new communities within the jurisdiction of the commission pursuant to Sections 33021 and 33298 of the Health and Safety Code.

(b) To adopt standards and procedures for the evaluation of proposals, including standards for each of the factors enumerated in Section 54796.

(c) To make and enforce rules and regulations for the orderly and fair conduct of hearings by the commission.

(d) To incur usual and necessary expenses for the accomplishment of its functions.

(e) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(f) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty thereof, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(g) To waive the restrictions of Section 35010 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(h) To waive the application of Section 25210.90 if it finds the application would deprive an area of a service needed to insure the health, safety, or welfare of the area's residents and if it finds that such waiver would not affect the ability of a city to provide any service; provided, however, that within 60 days of the inclusion of the territory within the city, the governing body may adopt a resolution nullifying the waiver.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 8. Section 56250.5 is added to the Government Code, to read:

56250.5. (a) Notwithstanding any other provision of this part, the commission shall not have any authority to review a reorganization which includes an annexation to any city in Santa Clara County of unincorporated territory which is within the urban service area of the city if the reorganization is initiated by resolution of the legislative body of the city within two years after the date upon which the urban service area is delineated and adopted by the commission.

(b) The legislative body of the city shall be the conducting authority for the reorganization and the proceedings for the reorganization shall be initiated and conducted as nearly as may be practicable in accordance with Article 2 (commencing with Section 35220) of Chapter 3 of Part 2.

The legislative body of the city, in adopting the resolution approving the reorganization, shall make the following findings:

(1) That the unincorporated territory is within the city's urban service area as adopted by the commission.

(2) That the county surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the commission's road annexation policies.

(3) That the proposal does not split lines of assessment or ownership.

(4) That the proposal does not create islands or areas in which it

would be difficult to provide municipal services.

(5) That the proposal is consistent with the city's adopted general plan.

(6) That the territory is contiguous to existing city limits.

(c) All reorganizations which involve territory for which the land use designation in the city's general plan has changed from the time that the city's urban service area was last adopted by the commission, and which are processed by a city pursuant to this section shall be subject to an appeal to the commission upon submission of a petition of appeal, signed by at least 50 registered voters in the county .

(d) An appeal to the commission may also be made by submission of a resolution of appeal adopted by the legislative body of a special district solely for the purpose of determining whether some or all of the territory contained in the reorganization proposal should also be annexed or detached from that special district.

(e) Any such petition under subdivision (c) or resolution under subdivision (d) shall be submitted to the executive officer of the commission within 15 days of the adoption by the legislative body of the city of the resolution approving the annexation. The executive officer of the commission shall schedule the hearing for the next regular meeting of the commission as is practicable. The commission may set a reasonable appeal fee.

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. 9. It is the intent of the Legislature, if this bill and Assembly Bill 2004 are both chaptered and become effective January 1, 1983, both bills amend Section 54784 of the Government Code, and this bill is chaptered after Assembly Bill 2004, that the amendments to Section 54784 proposed by both bills be given effect and incorporated in Section 54784 in the form set forth in Section 6.5 of this act. Therefore, Section 6.5 of this act shall become operative only if this bill and Assembly Bill 2004 are both chaptered and become effective January 1, 1983, both amend Section 54784, and this bill is chaptered after Assembly Bill 2004, in which case Section 6 of this act shall not become operative.

SEC. 10. 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 1179

An act to amend Sections 2296, 2297, and 2299 of the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 2296 of the Business and Professions Code is amended to read:

2296. Whenever it appears to the Division of Medical Quality that a licensee is mentally or physically ill to the extent the licensee's ability to practice medicine safely is impaired, the division may order and compel the licensee to be examined by one or more physicians and surgeons in the appropriate specialty designated by the division. The report of the examiners shall be made available to the licensee and may be received as direct evidence in a proceeding conducted pursuant to Section 2297.

The licensee's refusal to comply with an order compelling examination shall constitute grounds for the suspension or revocation of the licensee's certificate.

If the division determines that there is insufficient evidence to bring an action against the licensee, then all records of the proceedings shall be kept confidential and are not subject to discovery or subpoena. If no further proceedings are conducted pursuant to Section 2297 during a period of three years from the date of the determination, the division shall purge and destroy all records pertaining to the proceedings under this section. If an action is subsequently filed against a licensee during the three-year period pursuant to Section 2297, the records may be used in the new proceeding and may be subject to discovery by respondent under Section 11507.6 of the Government Code.

SEC. 2. Section 2297 of the Business and Professions Code is amended to read:

2297. If a licensee becomes mentally or physically ill to such an extent as to affect his or her ability to practice medicine safely, the Division of Medical Quality may take action by any one of the following methods, pursuant to procedures of the Administrative Procedures Act:

(a) Placing the licensee on probation.

(b) Suspending the licensee's right to practice for a period not exceeding one year.

(c) Revoking the licensee's certificate.

(d) Taking such other action in relation to the licensee as the division in its discretion deems proper.

The division shall not reinstate a suspended or revoked certificate until it has received competent evidence of the absence or control

of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice may be safely reinstated.

SEC. 3. Section 2299 of the Business and Professions Code is amended to read:

2299. In reinstating a certificate which has been revoked or suspended under Section 2297, the Division of Medical Quality may impose terms and conditions to be followed by the licensee after the certificate has been reinstated. The authority of the division to impose terms and conditions includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training.

(b) Requiring the licensee to pass an oral, written, practical, or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of medicine.

(c) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the division. If the division requires the licensee to submit to such an examination, the division shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(d) Requiring the licensee to undergo continuing treatment.

(e) Restricting or limiting the extent, scope, or type of practice of the licensee.

CHAPTER 1180

An act to add Article 3.5 (commencing with Section 18720) to Chapter 2 of Part 2 of Division 5 of Title 2 of the Government Code, relating to state employment.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982]

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

SECTION 1. Article 3.5 (commencing with Section 18720) is added to Chapter 2 of Part 2 of Division 5 of Title 2 of the Government Code, to read:

Article 3.5. Employment Procedures

18720. It is the purpose of this article to ensure that the employment procedures of each state agency conform to the federal and state laws governing employment practices, including the use of employment forms. The State Personnel Board and the Department

of Fair Employment and Housing shall work cooperatively to develop uniform employment forms where possible pursuant to the provisions of this article and shall coordinate their enforcement of this article.

18720.1. The State Personnel Board shall collect and review all employment forms used by state agencies for civil service employment and shall develop standard employment forms for general use by all state agencies. Each state agency shall use the standard forms. The board, however, may approve the use of a nonstandard form by a state agency based upon a petition submitted by the agency which specifies the reasons why a nonstandard form is necessary to meet the agency's needs.

18720.2. The Department of Fair Employment and Housing shall collect and review all other forms used by state agencies for employment, and occupational licensing and registration, to ensure conformance to law and to develop standard forms for general use by all state agencies. Each state agency shall use the standard forms. The department, however, may approve the use of a nonstandard form by a state agency based on a petition submitted by the agency which specifies the reasons why a nonstandard form is necessary to meet the agency's needs.

18720.3. Each state agency is responsible for ensuring that the employment application forms, and occupational licensing and registration forms, used by the agency conform to federal and state laws governing registration and employment practices. An agency shall not use a form which is not approved by either the State Personnel Board or by the Department of Fair Employment and Housing.

18720.4. State agencies shall exhaust existing supplies of forms which conform with federal and state law before using any new form approved by the State Personnel Board or the Department of Fair Employment and Housing pursuant to this article.

18720.5. A violation of this article shall constitute an unlawful employment practice which is subject to the enforcement provisions of the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2), except Sections 12975 and 12976 thereof, or to enforcement pursuant to Article 2 (commencing with Section 18670) and Article 3 (commencing with Section 18700) of this chapter and Article 2 (commencing with Section 19700) of Chapter 10.

CHAPTER 1181

An act to add Sections 19105 and 19106 to the Welfare and Institutions Code, relating to rehabilitation services.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 19105 is added to the Welfare and Institutions Code, to read:

19105. Commencing in 1983, by January 1 of each year, through January 1, 1985, the department shall submit an annual report to the Legislature which shall include the following descriptions and data concerning the administration of the vocational rehabilitation program for the prior year and describe in clear and complete language program administration and enumerate the costs that are appropriately charged thereto.

(a) The definition shall include:

(1) Development and maintenance of adequate accounting and budgeting.

(2) Financial management.

(3) Statistical systems.

(4) Data processing.

(5) Program planning.

(6) Development, evaluation and controls.

(7) Research interpretation of the program to the public.

(8) Personnel administration.

(9) Use of advisory committees.

(10) The removal of architectural barriers in state agency offices and facilities.

(11) Training and staff development of state agency personnel.

(12) Any other activities which are not related to direct services to applicants and clients.

(b) The definition and enumeration shall include charges of personnel and activities in the department's field offices when the personnel and activities are wholly or in part involved with administration of the program. The department shall maintain a written record to explain the basis for proration.

SEC. 2. Section 19106 is added to the Welfare and Institutions Code, to read:

19106. The department shall submit an annual report to the Legislature to include the following performance data for the prior year:

(a) The number of persons who applied for service.

(b) The number of persons accepted for service.

(c) The number of persons for whom plans for service were approved.

(d) The number of cases closed after acceptance for service:

(1) Without planned service.

(2) Unemployed after planned service.

(3) Employed for at least 60 days after planned service.

(e) The number of persons served whose cases have been closed

and who are employed by classification of employment objective.

(f) The number of persons served whose cases have been closed and who are employed by classification of employment objective in the rehabilitation plan.

(g) The costs of service by percentile intervals and total cost for persons whose cases have been closed and who are unemployed after planned services.

(h) The costs of service by percentile interval and total cost for persons whose cases have been closed and who are employed after planned services.

(i) The classification of employment objectives in rehabilitation plans.

(j) The classification of employment objectives of persons placed in employment.

(k) The number of persons whose vocational objective in their rehabilitation plan was the same as that in which they became employed.

(*l*) The number employed in a different type of occupation than the objective in their rehabilitation plan.

(m) The method by which each person found employment, including:

(1) Through placement by the rehabilitation counselor or other department staff.

(2) By finding his or her own job.

(3) Through placement by the Employment Development Department.

(4) Through placement by a training agency.

(5) Employment by a training agency in on-the-job training.

(6) Other.

(n) The average cost and percentile cost distribution of purchased case services of all persons whose cases have been closed and who are employed.

(o) The average cost and percentile cost distribution of all persons still employed one year after case closure. This information may be collected on the basis of sample data.

(p) The average cost of service of cases closed where a person is employed based on department's total vocational rehabilitation expenditures. This cost shall be derived from total cost divided by total number of employed persons.

(q) The average cost of service based on department's total vocational rehabilitation expenditures for all persons still employed one year after case closure. This information may be collected on the basis of sample data.

CHAPTER 1182

An act to amend Sections 18817, 18819, and 26132 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 18817 of the Revenue and Taxation Code is amended to read:

18817. The Franchise Tax Board may by notice, served personally or by first-class mail, require any employer, person, officer or department of the state, political subdivision or agency of the state, including the Regents of the University of California, a city organized under a freeholders' charter, or a political body not a subdivision or agency of the state, having in their possession, or under their control, any credits or other personal property or other things of value, belonging to a taxpayer or to an employer or person who has failed to withhold and transmit amounts due pursuant to Section 18815 or 18818, to withhold, from such credits or other personal property or other things of value, the amount of any tax, interest, or penalties due from the taxpayer or the amount of any liability incurred by such employer or person for failure to withhold and transmit amounts due from a taxpayer under this part and to transmit the amount withheld to the Franchise Tax Board at such times as it may designate. However, in the case of a depository institution, as defined in Section 19(b) of the Federal Reserve Act (12 U.S.C.A. Sec. 461(b)(1)(A)), amounts due from a taxpayer under this part shall be transmitted to the Franchise Tax Board not less than 10 business days from receipt of the notice. To be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch or office where the credits or other property is held, unless another branch or office is designated by the employer, person, officer or department of the state, political subdivision or agency of the state, including the Regents of the University of California, a city organized under a freeholders' charter or a political body not a subdivision or agency of the state.

SEC. 2. Section 18819 of the Revenue and Taxation Code is amended to read:

18819. Any employer or person required to withhold and transmit any amount pursuant to this article shall comply with the requirement without resort to any legal or equitable action in a court of law or equity. Any employer or person paying to the Franchise Tax Board any amount required by it to be withheld is not liable therefor to the person from whom withheld unless the amount withheld is refunded to the withholding agent; provided, however, that if a depository institution, as defined in subparagraph (A) of paragraph

1 of subdivision (b) of Section 461 of Title 12 of the United States Code withholds and pays to the Franchise Tax Board pursuant to this article any moneys held in a deposit account in which the delinquent taxpayer and another person or persons have an interest, the depository institution paying such moneys to the Franchise Tax Board is not liable therefor to any of the persons who have an interest in the account, unless the amount withheld is refunded to the withholding agent.

SEC. 3. Section 26132 of the Revenue and Taxation Code is amended to read:

26132. The Franchise Tax Board may by notice, served personally or by first-class mail, require any bank, corporation or person, and any officer or department of the state or any political subdivision or agency of the state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state, having in their possession, or under their control, any credits or other personal property or other things of value, belonging to a taxpayer to withhold, from the credits or other property the amount of any tax, interest or penalties due from the taxpayer or the amount of any liability incurred by that person for failure to withhold and transmit amounts due from a taxpayer under this part and to transmit the amount withheld to the Franchise Tax Board at such times as it may designate. However, in the case of a depository institution, as defined in Section 19(b) of the Federal Reserve Act (12 U.S.C.A. Sec. 461(b)(1)(A)), amounts due from a taxpayer under this part shall be transmitted to the Franchise Tax Board not less than 10 business days from receipt of the notice. To be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch or office where the credits or other property is held, unless another branch or office is designated by the bank, corporation, person, officer or department of the state, political subdivision or agency of the state, city organized under a freeholder's charter, or a political body as a subdivision or agency of the state. Any bank, corporation or person failing to withhold the amounts due from any taxpayer and transmit the same to the Franchise Tax Board after service of the notice shall be liable for those amounts.

CHAPTER 1183

An act to amend Section 9023 (as amended and renumbered by Section 11 of Chapter 1022 of the Statutes of 1980) of, to add Article 12.5 (commencing with Section 820) to Chapter 1 of, to repeal Article 4.5 (commencing with Section 1690) of Chapter 4 of Division 2 of, and to repeal Sections 2296, 2297, 2298, 2299, 2966, 2967, 2968, 2969, and 17824 of, the Business and Professions Code, relating to state licentiates.

[Approved by Governor September 17, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Article 12.5 (commencing with Section 820) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 12.5. Mental Illness or Physical Illness

820. Whenever it appears that any person holding a license, certificate or permit under this division, under any initiative act referred to in this division, under Chapter 17 (commencing with Section 9000) of Division 3, or under Chapter 4 (commencing with Section 17800) of Part 3 of Division 7 may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

821. The licentiate's failure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of the licentiate's certificate or license.

822. If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

823. Notwithstanding any other provisions of law, reinstatement of a licentiate against whom action has been taken pursuant to Section 822 shall be governed by the procedures in this article. In reinstating a certificate or license which has been revoked or suspended under Section 822, the licensing agency may impose terms and conditions to be complied with by the licentiate after the certificate or license has been reinstated. The authority of the licensing agency to impose terms and conditions includes, but is not

limited to, the following:

(a) Requiring the licentiate to obtain additional professional training and to pass an examination upon the completion of the training.

(b) Requiring the licentiate to pass an oral, written, practical, or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of his or her profession.

(c) Requiring the licentiate to submit to a complete diagnostic examination by one or more physicians and surgeons or psychologists appointed by the licensing agency. If the licensing agency requires the licentiate to submit to such an examination, the licensing agency shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons or psychologists of the licentiate's choice.

(d) Requiring the licentiate to undergo continuing treatment.

(e) Restricting or limiting the extent, scope or type of practice of the licentiate.

824. The licensing agency may proceed against a licentiate under either Section 820, or 822, or under both sections.

825. As used in this article with reference to persons holding certificates as physicians and surgeons, "licensing agency" means the Division of Medical Quality.

826. The proceedings under Sections 821 and 822 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 licensing agency and the licentiate shall have all the rights and powers granted therein.

827. Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, the licensing agency may convene in closed session to consider any evidence relating to the licentiate's mental or physical illness obtained pursuant to the proceedings under Section 820. The licensing agency shall only convene in closed session to the extent that it is necessary to protect the privacy of a licentiate.

828. If the licensing agency determines, pursuant to proceedings conducted under Section 820, that there is insufficient evidence to bring an action against the licentiate pursuant to Section 822, then all licensing agency records of the proceedings, including the order for the examination, investigative reports, if any, and the report of the physicians and surgeons or psychologists, shall be kept confidential and are not subject to discovery or subpoena. If no further proceedings are conducted to determine the licentiates fitness to practice during a period of five years from the date of the determination by the licensing agency of the proceeding pursuant to Section 820, then the licensing agency shall purge and destroy all records pertaining to the proceedings. If new proceedings are instituted during the five-year period against the licentiate by the licensing agency, the records, including the report of the physicians

and surgeons or psychologists, may be used in the proceedings and shall be available to the respondent pursuant to the provisions of Section 11507.6 of the Government Code.

SEC. 2. Article 4.5 (commencing with Section 1690) of Chapter 4 of Division 2 of the Business and Professions Code is repealed.

SEC. 3. Section 2296 of the Business and Professions Code is repealed.

SEC. 4. Section 2297 of the Business and Professions Code is repealed.

SEC. 5. Section 2298 of the Business and Professions Code is repealed.

SEC. 6. Section 2299 of the Business and Professions Code is repealed.

SEC. 7. Section 2966 of the Business and Professions Code is repealed.

SEC. 8. Section 2967 of the Business and Professions Code is repealed.

SEC. 9. Section 2968 of the Business and Professions Code is repealed.

SEC. 10. Section 2969 of the Business and Professions Code is repealed.

SEC. 11. Section 9023 of the Business and Professions Code, as amended and renumbered by Section 11 of Chapter 1022 of the Statutes of 1980, is amended to read:

9023. The board may suspend or revoke the license of any licensee if:

(a) He or she is convicted of an offense substantially related to the qualifications, functions or duties of a social worker.

(b) He or she uses intoxicating liquor or narcotic or hypnotic drugs to such an extent that in his activities as a social worker he or she is likely to endanger the health, welfare, or safety of the public.

(c) He or she advocates the overthrow of the government by force and violence or other unlawful means.

(d) He or she has committed a dishonest or fraudulent act as a social worker resulting in substantial injury to another.

SEC. 12. Section 17824 of the Business and Professions Code is repealed.

CHAPTER 1184

An act to amend Section 12940 of the Government Code, and to add and repeal Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code, relating to abuse of dependent adults.

[Approved by Governor September 18, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 12940 of the Government Code is amended to read:

12940. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge such person from employment or from a training program leading to employment, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of a physically handicapped employee, where the employee, because of his or her physical handicap, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger his or her health or safety or the health and safety of others.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others.

(3) Nothing in this part relating to discrimination on account of marital status shall either (i) affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission, or (ii) prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to

Vietnam Era veterans.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to exclude, expel or restrict from its membership such person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any nonjob-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, or any intent to make any such limitation, specification or discrimination. Nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization or employment agency to harass, discharge, expel or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code.

(f) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified or assisted in any proceeding under this part.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(h) For the governing board of a school district to violate Section 44066 or 87402 of the Education Code.

SEC. 2. Section 12940 of the Government Code is amended to read:

12940. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge such person from employment or from a training program leading to employment, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of a physically handicapped employee, where the employee, because of his or her physical handicap, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger his or her health or safety or the health and safety of others.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others.

(3) Nothing in this part relating to discrimination on account of marital status shall either (i) affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission, or (ii) prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to Vietnam era veterans.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to exclude, expel or restrict from its membership such person, or to provide only second-class or

segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any nonjob-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, or any intent to make any such limitation, specification or discrimination. Nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization or employment agency to harass, discharge, expel or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code.

(f) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified or assisted in any proceeding under this part.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(h) For the governing board of a school district to violate Section 44066 or 87402 of the Education Code.

(i) For an employer, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any other person, because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age, to harass an individual or to knowingly

permit or fail to take reasonable precautions to prevent this harassment, including, but not limited to, sexual harassment. Loss of tangible job benefits shall not be necessary in order to establish harassment. The provisions of this subdivision are declaratory of existing law.

SEC. 3. Chapter 11 (commencing with Section 15600) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 11. ABUSE OF THE ELDERLY AND OTHER DEPENDENT ADULTS

Article 1. Legislative Findings and Intent

15600. The Legislature recognizes that dependent adults may be subjected to abuse, neglect, or abandonment and that this state has a responsibility to protect such persons.

The Legislature further recognizes that a significant number of these persons are elderly. The Legislature desires to direct special attention to the needs and problems of the elderly, recognizing that these persons constitute a significant and identifiable segment of the population and that they are more subject to risks of abuse, neglect, and abandonment.

The Legislature declares that if this state is to foster and promote community services for the economic, social, and personal well-being of its citizens, as desired by the Legislature, it must take steps designed to protect those persons described in this section.

15601. The purposes of this act are to:

(a) Encourage health care providers, social service workers, and community members in general to report suspected cases of abuse of dependent adults.

(b) Collect information on the numbers of abuse victims, circumstances surrounding the act of abuse, and other data which will aid the state in establishing adequate services to aid all victims of abuse in a timely, compassionate manner.

(c) Provide for protection under the law for all those persons who report suspected cases of abuse, provided that the report is not made with malicious intent.

15602. This chapter shall remain in effect only until January 1, 1986, and on that date is repealed unless a later enacted statute, which is chaptered before that date, deletes or extends the date.

Article 2. Definitions

15610. As used in this chapter:

(1) The term "abuse" means the infliction of injury, intimidation, cruel punishment, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care-giver of goods or services which are necessary to avoid physical harm or mental suffering.

(2) "Neglect" means the failure of any person having the care or custody of a dependent adult to exercise that degree of care which a reasonable person in a like position would exercise.

Neglect includes, but is not limited to:

(a) Failure to assist in personal hygiene, or in the provision of food and clothing for a dependent adult.

(b) Failure to provide the medical care for the physical and mental health needs of a dependent adult. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(c) Failure to protect a dependent adult from health and safety hazards.

(d) Failure to prevent a dependent adult from suffering malnutrition.

(3) The term "abandonment" refers to the desertion or willful foresaking of a dependent adult by a care-giver.

(4) "Physical abuse" means a situation where any person who has the care or custody of, or who stands in a position of trust with, a dependent adult, willfully inflicts upon that dependent adult any cruel or inhuman corporal punishment or injury. Physical abuse includes, but is not limited to, direct beatings, sexual assault, unreasonable physical constraint, or prolonged deprivation of food or water.

(5) The term "mental suffering" means deliberately subjecting a person to fear, agitation, confusion, severe depression, or other forms of serious emotional distress, through threats, harassment, or other forms of intimidating behavior.

(6) The term "dependent adult" means any person residing in California who has attained the age of 18 years or older who has physical, mental, or financial limitations which restrict his or her individual ability to carry out normal activities of daily living, ability to protect his or her own rights, and which threaten the individual's capacity to live an independent life.

(7) The term "goods or services which are necessary to avoid physical harm or mental suffering" includes but is not limited to: (a) the provision of medical care for physical and mental health needs, (b) assistance in personal hygiene, (c) possessing adequate clothing, (d) adequately heated and ventilated shelter, (e) protection from health and safety hazards, (f) protection from malnutrition, under those circumstances where the results include but are not limited to, malnutrition and deprivation of necessities or physical punishment, and (g) transportation and assistance necessary to secure any of the needs set forth in paragraphs (a) through (f). No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(8) The term "care-giver" means, any person, health facility, community care facility, clinic, home health agency or legal guardian

or conservator who provides goods or services necessary to avoid physical harm, or mental suffering, and who performs duties.

(9) The term "nursing home ombudsman" means the long-term care ombudsman of the Department of Aging, the ombudsman coordinators of that department, and the persons acting in the capacity of regional ombudsman on behalf of approved organizations as described in Chapter 9 (commencing with Section 9700) of Division 8.5.

Article 3. Data Base Method of Reporting Requirements

15620. The State Department of Social Services shall submit a report to the Legislature and Governor on the characteristics of abuse victims. The State Department of Social Services shall incorporate any and all comments or observations on abuse of the elderly. The State Department of Social Services shall design the report form by April 1, 1983. The counties, or the designated contract agency shall begin using the form by January 1, 1984.

15620.5. The State Department of Social Services shall report to the Legislature by July 31, 1985.

15621. The evaluation and report shall include, but not be limited to, the following areas of inquiry:

(a) An estimation of the extent of the problem.

(b) The nature of adult abuse, including data concerning the following:

(1) The age of each dependent person 18 years of age or older reported as having been abused, neglected, or abandoned.

(2) The type of incident specified as abuse, either physical or mental, neglect, or abandonment.

(3) The frequency of abuse reported in a general time frame such as daily, weekly, monthly, sporadically, or unknown.

(4) The location, including demographic information as to urban versus rural incidents of, as well as a differentiation between, institutional and home abuse.

(c) The relationship of the suspected abuser to the abused.

(d) A standardized reporting mechanism. The form to be utilized shall be developed by the department, which shall be responsible for collecting the data, collating statistical information and delegating a central reporting area for the collection of the data. Full recognition is given that complete data may not be available for each incident reported. The name of the abused and all persons reporting suspected cases shall at all times be confidential.

(e) Information discussing the availability of services for those dependent persons reported as having been abused, neglected, or abandoned.

(f) Recommendations by the department, in cooperation with the Department of Aging regarding further study or needed policy changes, including legislation. Specific recommendations for unmet needs shall be identified.

Information on institutional abuse filed with the State Department of Health Services district licensing and certification offices shall be included in the report. The State Department of Health Services and the State Department of Social Services shall coordinate the confidential exchange of this information.

Article 4. Reports of Abuse

15630. Any person witnessing or suspecting that a dependent adult is being or has been subject to abuse may report suspected cases to the county adult protective services agency.

Any person reporting under this article is immune from civil or criminal liability due to, or arising out of failure to file a report. Any person who reports under this section is also immune from civil or criminal liability, unless such person acted in bad faith or with a malicious purpose.

No employee shall be discharged, suspended, disciplined, or harassed for making a report pursuant to this article.

15631. The County Board of Supervisors may designate a voluntary or private nonprofit community agency to receive reports filed pursuant to this article.

Each county adult protective agency or designated contract agency shall maintain an inventory of all public and private service agencies available to assist victims of abuse as defined by Section 15610. This inventory shall be used to refer victims in the event that the county adult protective services agency cannot resolve the immediate needs of the victim, and to serve the victim on a long-term, followup basis. The intent of this section is to acknowledge that limited funds are available to resolve all suspected cases of abuse reported to a county adult protective services agency. Counties are encouraged to establish a formal agreement with the local nursing home ombudsman programs to help resolve suspected cases of abuse occurring in an institutional setting.

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, in connection with implementation of this act, 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. It is the intent of the Legislature, if this bill and Assembly Bill 1985 are both chaptered and amend Section 12940 of the Government Code, and this bill is chaptered after Assembly Bill 1985, that the amendments to Section 12940 proposed by both bills be given effect and incorporated in Section 12940 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill 1985 are both chaptered, both amend Section 12940, and Assembly Bill 1985 is chaptered

before this bill, in which case Section 1 of this act shall not become operative.

CHAPTER 1185

An act to amend Sections 10249.11, 11004.5, and 11024 of the Business and Professions Code, relating to subdivisions.

[Approved by Governor September 18, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 10249.11 of the Business and Professions Code is amended to read:

10249.11. "Subdivision," as used in Section 10249, also includes subdivided lands as defined in subdivision (e) of Section 11004.5.

SEC. 2. Section 11004.5 of the Business and Professions Code is amended to read:

11004.5. In addition to any provisions of Section 11000 of this code the reference therein to "subdivided lands" and "subdivision" shall include all of the following:

(a) Any planned development, as defined in Section 11003 of this code, containing five or more lots.

(b) Any community apartment project, as defined by Section 11004 of this code, containing five or more apartments.

(c) Any condominium project containing five or more condominiums as defined in Section 783 of the Civil Code.

(d) Any stock cooperative as defined in Section 11003.2, including any legal or beneficial interests therein, having or intended to have five or more shareholders.

(e) (1) A time-share project, as defined in Section 11003.5, consisting of 12 or more time-share estates or time-share uses having terms of five years or more, except that time-share uses, whether or not assignable or irrevocable, in real property other than structural dwelling places shall not constitute a subdivision.

(2) Any combination of 12 or more time-share estates or time-share uses having terms of five years or more in two or more time-share projects in the same subdivision (as defined in Section 11000 or this section), if concurrently advertised or offered for sale by or on behalf of the same or affiliated persons, except that time-share uses, whether or not assignable or irrevocable, in real property other than structural dwelling places, shall not constitute a subdivision. Except as deemed impracticable by the commissioner, the report required by Section 11018 on a subdivision defined by this paragraph shall be prepared as a single consolidated report.

(f) Any limited-equity housing cooperative, as defined in Section 11003.4.

(g) In addition, the following interests shall be subject to the provisions of this chapter and the regulations of the commissioner adopted pursuant thereto:

(1) Any accompanying memberships or other rights or privileges created in, or in connection with, any of the forms of development referred to in subdivision (a), (b), (c), (d), (e), or (f) above by any deeds, conveyances, leases, subleases, assignments, declarations of restrictions, articles of incorporation, bylaws or contracts applicable thereto.

(2) Any interests or memberships in any owners association as described in Section 11003.1 created in connection with any of the forms of the development referred to in subdivision (a), (b), (c), (d), (e), or (f) above.

SEC. 3. Section 11004.6 is added to the Business and Professions Code, to read:

11004.6. (a) If and to the extent that there has been compliance with subdivision (b) of this section, the provisions of paragraph (2) of subdivision (e) of Section 11004.5 shall not be applicable to an offering of either of the following:

(1) Time-share estates or time-share uses in a time-share project in which any time-share estate or time-share use was, prior to July 1, 1982, sold to a member of the general public, or if not sold, was offered for sale to the general public through a bona fide marketing effort as evidenced by media advertising, direct mail solicitations, or other marketing methods.

(2) Time-share estates or time-share uses located in the same subdivision project in which a time-share estate or time-share use to which paragraph (1) of subdivision (a) of this section is applicable is located, if:

(A) The time-share estate or time-share use will be offered for sale by the person, or by an affiliate of the person, who sold or offered for sale the time-share estate or time-share use to which paragraph (1) is applicable, and

(B) The time-share estate or time-share use is in a lot, parcel, or unit of real property which, on or before July 1, 1982, the person owned or had contracted in writing to purchase.

(b) A person claiming exemption under subdivision (a) of this section shall, on or before January 1, 1983, submit all of the following to the Department of Real Estate, in the form and in the manner prescribed by the department:

(1) Identification of each time-share project and each lot, parcel, or unit of real property purporting to qualify for the exemption under subdivision (a); and

(2) Evidence of sales or of a marketing program to members of the general public made on or before July 1, 1982, upon which the person is relying in claiming the exemption of subdivision (a).

SEC. 4. Section 11024 of the Business and Professions Code is amended to read:

11024. (a) A person who has made an offer to purchase a

time-share estate or time-share use in a time-share project, as defined in Section 11003.5, shall have the right to rescind any contract resulting from the acceptance of the offer until midnight of the third calendar day following the day on which the prospective purchaser executed the offer to purchase.

(b) The owner of a subdivision, as defined in subdivision (e) of Section 11004.5, or his or her agent, shall, in accordance with regulations adopted by the Real Estate Commissioner, clearly and conspicuously disclose to all prospective purchasers of time-share interests the right of rescission provided for in subdivision (a), and shall furnish to each offeror a form, as prescribed by regulations of the commissioner, for the exercise of the right of rescission.

(c) Any certificate bearing the signature of the purchaser of a time-share estate or time-share use in a time-share project, as defined in Section 11003.5, which contains an adequate description of the interests sold and a statement by the purchaser that he or she has not exercised the right of rescission within the time limit set forth herein shall constitute conclusive evidence that the right of rescission has not been exercised in any matter involving the rights of a third party who has acted in good faith in reliance upon representations in the certificate.

SEC. 5. 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 1186

An act to amend Section 1373.6 of the Health and Safety Code, to amend Sections 12670, 12672, 12673, 12678, 12679, 12683, 12684, 12686, 12687, and 12689 of, and to amend and renumber Section 12670.1 of, the Insurance Code, relating to health insurance.

[Approved by Governor September 18, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 1373.6 of the Health and Safety Code is amended to read:

1373.6. (a) Except in the case of a specialized health care service plan contract, every group contract entered into, amended, or renewed on or after January 1, 1983, that provides hospital, medical or surgical expense benefits for employees or members shall provide

that an employee or member whose coverage under the group contract has been terminated by the employer shall be entitled to convert to nongroup membership, without evidence of insurability, subject to the terms and conditions of this section.

(b) A conversion contract shall not be required to be made available to an employee or member if termination of his or her coverage under the group contract occurred for any of the following reasons:

(1) The group contract terminated or an employer's participation terminated.

(2) The employee or member failed to pay amounts due the health care service plan.

(3) The employee or member was terminated by the health care service plan from the plan for good cause.

(4) The employee or member knowingly furnished incorrect information or otherwise improperly obtained the benefits of the plan.

(5) The employer's hospital, medical or surgical expense benefit program is self-insured.

(c) A conversion contract is not required to be issued to any person if any of the following facts are present:

(1) Such person is covered by or is eligible for benefits under Title XVIII of the United States Social Security Act.

(2) Such person is covered by or is eligible for hospital, medical or surgical benefits under state or federal law.

(3) Such person is covered by or is eligible for hospital, medical or surgical benefits under any arrangement of coverage for individuals in a group, whether insured or self-insured.

(4) Such person is covered for similar benefits by an individual policy or contract.

(5) Such person has not been continuously covered during the three-month period immediately preceding that person's termination of coverage.

(d) Benefits of a conversion contract shall meet the requirements for benefits under this chapter.

(e) Unless waived in writing by the plan, written application and first premium payment for the conversion contract shall be made not later than 31 days after termination from the group.

(f) The conversion contract shall cover the employee or member and his or her dependents who were covered under the group contract on the date of their termination from the group.

(g) A notification of the availability of the conversion coverage shall be included in each evidence of coverage; provided, however, that it shall be the sole responsibility of the employer to notify its employees of the availability, terms and conditions of such conversion coverage which responsibility shall be satisfied by notification within 15 days of termination of group coverage excluding any period during which there is any continuation or extension of the group coverage. For purposes of this subdivision, the

employer shall not be deemed the agent of the plan for purposes of notification of the availability, terms and conditions of conversion coverage.

SEC. 1.5. Section 1373.6 of the Health and Safety Code is amended to read:

1373.6. (a) Except in the case of a specialized health care service plan contract, every group contract entered into, amended or renewed on or after January 1, 1983, that provides hospital, medical or surgical expense benefits for employees or members shall provide that an employee or member whose coverage under the group contract has been terminated by the employer shall be entitled to convert to nongroup membership, without evidence of insurability, subject to the terms and conditions of this section.

(b) A conversion contract shall not be required to be made available to an employee or member if termination of his or her coverage under the group contract occurred for any of the following reasons:

(1) The group contract terminated or an employer's participation terminated;

(2) The employee or member failed to pay amounts due the health care service plan;

(3) The employee or member was terminated by the health care service plan from the plan for good cause;

(4) The employee or member knowingly furnished incorrect information or otherwise improperly obtained the benefits of the plan.

(5) The employer's hospital, medical or surgical expense benefit program is self-insured.

(c) A conversion contract is not required to be issued to any person if any of the following facts are present:

(1) Such person is covered by or is eligible for benefits under Title XVIII of the United States Social Security Act.

(2) Such person is covered by or is eligible for hospital, medical or surgical benefits under state or federal law.

(3) Such person is covered by or is eligible for hospital, medical or surgical benefits under any arrangement of coverage for individuals in a group, whether insured or self-insured.

(4) Such person is covered for similar benefits by an individual policy or contract.

(5) Such person has not been continuously covered during the three-month period immediately preceding that person's termination of coverage.

(d) Benefits of a conversion contract shall meet the requirements for benefits under this chapter.

(e) Unless waived in writing by the plan, written application and first premium payment for the conversion contract shall be made not later than 30 days after termination from the group.

(f) The conversion contract shall cover the employee or member and his or her dependents who were covered under the group

contract on the date of their termination from the group.

(g) A notification of the availability of the conversion coverage shall be included in each evidence of coverage; provided, however, that it shall be the sole responsibility of the employer to notify its employees of the availability, terms and conditions of such conversion coverage which responsibility shall be satisfied by notification within 30 days of termination of group coverage excluding any period during which there is any continuation or extension of the group coverage. For purposes of this subdivision, the employer shall not be deemed the agent of the plan for purposes of notification of the availability, terms and conditions of conversion coverage.

(h) As used in this section, "hospital, medical or surgical benefits under state or federal law" do not include benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, or Title XIX of the United States Social Security Act.

SEC. 2. Section 12670 of the Insurance Code is amended to read:

12670. It is the intent of the Legislature to ensure that persons covered by a group policy, who become ineligible for such coverage have access to minimum benefits pursuant to this part by requiring employers, employee organizations and other entities which provide such coverage to their employees or members to also make available conversion policies for such persons and to ensure that insurers as herein defined offer conversion policies.

SEC. 3. Section 12670.1 of the Insurance Code is amended and renumbered to read:

12671. As used in this part:

(a) "Group policy" means a group disability insurance policy providing medical, hospital, surgical, major medical, or comprehensive medical coverage issued by an insurer, a group contract issued by a hospital service corporation or medical, hospital, surgical, major medical, or comprehensive medical coverage otherwise provided by a policyholder to its employees or members, except for self-insurance programs provided by employers. For the purposes of this part, a group policy not having an established annual renewal date shall be considered renewed on each anniversary of its effective date.

(b) "Conversion coverage" means disability insurance benefits providing hospital, surgical, major medical, or comprehensive medical coverage issued to an individual under a converted policy.

(c) "Converted policy" means a policy or contract providing conversion coverage issued by an insurance company or by a hospital service corporation, or individual hospital, surgical, major medical, or comprehensive medical coverage otherwise provided by a policyholder to its employees or members.

(d) "Insurer" means the entity issuing a group policy, an individual or converted policy, a hospital service contract or an employer or employee organization otherwise providing medical,

hospital, surgical, major medical, or comprehensive medical coverage to its employees or members.

(e) "Insurance" refers to medical, hospital, surgical, major medical, or comprehensive coverage paid by premium or contribution under a group policy, a hospital service contract, or as otherwise provided by a policyholder to its employees or members other than by self insuring, and does not include coverage provided solely as an accrued liability or by reason of a disability extension.

(f) "Policyholder" means the holder of a group policy issued by an insurer, a holder of a group contract issued by a hospital service corporation or an employer, employee association or other entity otherwise providing medical, hospital, surgical, major medical, or comprehensive medical coverage on a group basis to its employees or members.

(g) "Premium" means contribution or other consideration paid or payable for coverage under a group policy or converted policy.

(h) "Medicare" means Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded.

SEC. 4. Section 12672 of the Insurance Code is amended to read:

12672. Any group policy issued, amended, or renewed in this state on or after January 1, 1983, which provides insurance for employees or members on an expense-incurred or service basis, other than for a specific disease or for accidental injuries only, shall contain a provision that an employee or member whose coverage under the group policy has been terminated for any reason except as provided in this part, shall be entitled to have a converted policy issued to him or her by the insurer under whose group policy he or she was covered, without evidence of insurability, subject to the terms and conditions of this part.

SEC. 5. Section 12673 of the Insurance Code is amended to read:

12673. Conversion coverage shall be required to be made available to an employee or member unless such coverage under the group policy terminates for one or more of the following reasons:

(a) The group policy or the policyholder's participation in the group policy terminates and the insurance is replaced by similar coverage under another group policy within 60 days of the date of termination of the group coverage or the policyholder's participation.

(b) The employee or member has failed to make any required payment of the premium or contribution when due.

(c) The employee or member had not been continuously covered during the three-month period immediately preceding the employee's or member's termination of coverage.

SEC. 6. Section 12678 of the Insurance Code is amended to read:

12678. The insurer shall not be required to issue a converted policy covering any person if any of the following exists:

(a) Such person is covered for similar benefits by another individual policy.

(b) Such person is covered or is eligible to be covered for similar benefits by another group policy.

(c) Such person is covered or is eligible to be covered for similar benefits under any arrangement of coverage for persons in a group whether insured or uninsured.

(d) Similar benefits are provided for or are available to such person, by reason of any state or federal law.

SEC. 6.5. Section 12678 of the Insurance Code is amended to read:

12678. The insurer shall not be required to issue a converted policy covering any person if any of the following exists:

(a) Such person is covered for similar benefits by another individual policy.

(b) Such person is covered or is eligible to be covered for similar benefits by another group policy.

(c) Such person is covered or is eligible to be covered for similar benefits under any arrangement of coverage for persons in a group whether insured or uninsured.

(d) Similar benefits are provided for or are available to such person, by reason of any state or federal law.

(e) As used in this section, "state or federal law" does not include Chapter 7 (commencing with Section 14000) of Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, or Title XIX of the United States Social Security Act.

SEC. 7. Section 12679 of the Insurance Code is amended to read:

12679. A converted policy may provide that the insurer may at any time request information from any person covered thereunder as to whether he or she is covered for the similar benefits described in Section 12678. The converted policy shall provide that as of any premium due date the insurer may refuse to renew the policy or the coverage of any insured person for the following reasons only:

(a) Failure of the individual covered by the converted policy to provide the requested information.

(b) Fraud or material misrepresentation by the individual covered by the converted policy in applying for any benefits under the converted policy.

(c) Eligibility of the individual covered by the converted policy for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

(d) Coverage of the individual for similar benefits under another individual policy.

(e) Eligibility of the individual covered by the converted policy for coverage under any arrangement for coverage for persons in a group whether insured or uninsured.

(f) Nonpayment of premium.

(g) Other reasons approved by the Insurance Commissioner.

SEC. 7.5. Section 12679 of the Insurance Code is amended to

read:

12679. A converted policy may provide that the insurer may at any time request information from any person covered thereunder as to whether he or she is covered for the similar benefits described in Section 12678. The converted policy shall provide that as of any premium due date the insurer may refuse to renew the policy or the coverage of any insured person for the following reasons only:

(a) Failure of the individual covered by the converted policy to provide the requested information.

(b) Fraud or material misrepresentation by the individual covered by the converted policy in applying for any benefits under the converted policy.

(c) Eligibility of the individual covered by the converted policy for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy. As used in this section, "state or federal law" does not include 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, or Title XIX of the United States Social Security Act.

(d) Nonpayment of premium.

(e) Coverage of the individual for similar benefits under another individual policy.

(f) Eligibility of the individual covered by the converted policy for coverage under any arrangement for coverage for persons in a group whether insured or uninsured.

(g) Other reasons approved by the Insurance Commissioner.

SEC. 8. Section 12683 of the Insurance Code is amended to read:

12683. Subject to the provisions and conditions of this part, if the group policy from which conversion is made covers the employee or member for basic hospital or surgical expense, the employee or member shall be entitled to obtain a converted policy providing at least the following minimum benefits:

(a) Plan A.

(1) Hospital room and board daily expense benefits up to two hundred dollars ($200) for a duration of 70 days.

(2) Miscellaneous hospital expense benefits up to an amount of 10 times the hospital room and board daily expense benefits.

(3) Surgical expense benefits according to a surgical procedures schedule consistent with those customarily offered by the insurer under a group or individual health insurance policy and providing a maximum benefit of four thousand eight hundred dollars ($4,800).

(b) Plan B—75 percent of the dollar amounts of Plan A.

(c) Plan C—50 percent of the dollar amounts of Plan A.

(d) The maximum dollar amount for Plan A's hospital room and board daily expense benefit may be redetermined by the Insurance Commissioner as to conversion coverage issued subsequent to such redetermination. Such redetermination shall not be made more often than once in three years. The maximum dollar amount

redetermined by the commissioner shall not exceed 80 percent of the average semiprivate room rate then charged in the state.

(e) Covered expenses under this section shall include benefits for expense incurred by the employee, member, or spouse in connection with pregnancy, provided that:

(1) The pregnancy commenced while covered under the group policy from which conversion was made;

(2) The expense is of a type which would have been covered under such group policy; and

(3) The conversion policy is in force when the expense is incurred.

SEC. 9. Section 12684 of the Insurance Code is amended to read:

12684. Subject to the provisions and conditions of this part, if the group policy from which conversion is made provides the employee or member with major medical or comprehensive medical insurance, the employee or member shall be entitled to obtain a converted policy providing comprehensive medical coverage providing at least the following benefits:

(a) A payment per covered person for all covered medical expenses incurred during the person's lifetime equal to one hundred thousand dollars ($100,000); provided, however, that for treatment of mental illness payment may be limited to ten thousand dollars ($10,000) during the person's lifetime.

(b) Payment of benefits at the rate of 75 percent of covered medical expenses; provided, however, that if coverage is provided for expenses incurred for outpatient treatment of mental illness, payment of benefits may be at the rate of 50 percent of such covered expenses, and the insurer may limit the amount of covered expense for each outpatient visit and the amount of benefits payable for expenses incurred during each calendar year for that outpatient treatment.

(c) A cash deductible for each benefit period at the option of the insured of two hundred dollars ($200), five hundred dollars ($500), or one thousand dollars ($1,000), but not less than the cash deductible which applied to the insured under the group policy which entitles him or her to a converted policy.

(d) Covered medical expenses shall include the charges for a semiprivate hospital room and board, but need not exceed the lesser of one hundred fifty dollars ($150) per day or the hospital's most common charge for a semiprivate room, covered expenses for intensive care shall be at least two and one-half times the covered hospital room and board charge. The maximum dollar amount for hospital room and board daily covered expense may be redetermined by the commissioner as to conversion coverage issued after the redetermination. That redetermination shall not be made more often than once in three years. The maximum dollar amount redetermined by the commissioner shall not exceed the average semiprivate room rate then charged in the state.

(e) Covered expenses under this section shall include benefits for

expense incurred by the employee, member, or spouse in connection with pregnancy, provided that:

(1) The pregnancy commenced while covered under the group policy from which conversion was made;

(2) The expense is of a type which would have been covered under such group policy; and

(3) The conversion policy is in force when the expense is incurred.

(f) Covered expense under this section need not include expense for dental or vision care, or other optional benefits not normally offered by the insurer under a major medical or comprehensive medical expense plan.

SEC. 10. Section 12686 of the Insurance Code is amended to read:

12686. (a) In the event coverage would be continued under a group policy on an employee or member following his or her retirement prior to the time he or she is or could be covered by Medicare, the employee or member may elect, in lieu of the continuation of group insurance, to have the same conversion rights as would apply had that coverage terminated at retirement by reason of termination of employment or membership.

(b) The converted policy may provide for reduction or termination of coverage of any person upon his or her eligibility for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

(c) Subject to the conditions set forth herein, the conversion coverage shall also be available to:

(1) A covered dependent spouse and such children whose coverage terminates under the group policy by reason of the death of the employee or member, or a covered dependent spouse in the event such person ceases to be a qualified family member by reason of the termination of the marriage.

(2) A child, solely with respect to himself or herself, whose coverage terminates because the child ceases to be a qualified family member under the group policy.

(d) If the benefit levels required in Section 12683 or Section 12684 exceed the benefit levels provided under the group policy, the converted policy may offer benefits which are substantially similar to those provided under the group policy in lieu of those required in Section 12683 or Section 12684.

(e) The insurer may elect to provide conversion coverage through a group insurance policy issued for that purpose in lieu of an individual policy.

(f) An insurer required by this part to provide conversion coverage may provide such coverage through one or more other insurers a thorized to provide disability insurance coverage in this state.

SEC. 10.5. Section 12686 of the Insurance Code is amended to read:

12686. (a) In the event coverage would be continued under a group policy on an employee or member following his or her retirement prior to the time he or she is or could be covered by Medicare, the employee or member may elect, in lieu of the continuation of group insurance, to have the same conversion rights as would apply had that coverage terminated at retirement by reason of termination of employment or membership.

(b) The converted policy may provide for reduction or termination of coverage of any person upon his or her eligibility for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy. As used in this section, "state or federal law" does not include 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, or Title XIX of the United States Social Security Act.

(c) Subject to the conditions set forth herein, the conversion coverage shall also be available to:

(1) A covered dependent spouse and such children whose coverage terminates under the group policy by reason of the death of the employee or member, or a covered dependent spouse in the event such person ceases to be a qualified family member by reason of the termination of the marriage.

(2) A child, solely with respect to himself or herself, whose coverage terminates because the child ceases to be a qualified family member under the group policy.

(d) If the benefit levels required in Section 12683 or Section 12684 exceed the benefit levels provided under the group policy, the converted policy may offer benefits which are substantially similar to those provided under the group policy in lieu of those required in Section 12683 or Section 12684.

(e) The insurer may elect to provide conversion coverage through a group insurance policy issued for that purpose in lieu of an individual policy.

(f) An insurer required by this part to provide conversion coverage may provide such coverage through one or more other insurers authorized to provide disability insurance coverage in this state.

SEC. 11. Section 12687 of the Insurance Code is amended to read:

12687. Notwithstanding any other provision in this part, whenever an employee or member chooses among two or more conversion policies, such choice shall be made within 31 days from the last date when the employee or member was eligible for benefits under a group policy from which conversion is available.

SEC. 12. Section 12689 of the Insurance Code is amended to read:

12689. A notification of the conversion coverage shall be included in each certificate of coverage or other legally required document explaining coverage; provided, however, that it shall be the sole responsibility of the policyholder to notify its employees or members

of the availability, terms and conditions of conversion coverage which responsibility shall be satisfied by notification within 15 days of termination of group coverage excluding any period during which there is any continuation or extension of group coverage. For purposes of this part, the policyholder shall not be deemed to be the agent of the insurer for purposes of notification of the availability, terms and conditions of conversion coverage.

SEC. 13. It is the intent of the Legislature, if this bill and Senate Bill 1297 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 1373.6 of the Health and Safety Code, and this bill is chaptered after Senate Bill 1297, that Section 1373.6 of the Health and Safety Code, as amended by Section 1 of Senate Bill 1297, 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 1373.6 proposed by this bill. Therefore, if this bill and Senate Bill 1297 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 1297 is chaptered before this bill and amends Section 1373.6, 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. 14. It is the intent of the Legislature, if this bill and Senate Bill 1297 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 12678 of the Insurance Code, and this bill is chaptered after Senate Bill 1297, that Section 12678 of the Insurance Code, as amended by Section 3 of Senate Bill 1297, be further amended on the effective date of this act in the form set forth in Section 6.5 of this act to incorporate the changes in Section 12678 proposed by this bill. Therefore, if this bill and Senate Bill 1297 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 1297 is chaptered before this bill and amends Section 12678, Section 6.5 of this act shall become operative on the effective date of this act and Section 6 of this act shall not become operative.

SEC. 15. It is the intent of the Legislature, if this bill and Senate Bill 1297 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 12679 of the Insurance Code, and this bill is chaptered after Senate Bill 1297, that Section 12679 of the Insurance Code, as amended by Section 4 of Senate Bill 1297, be further amended on the effective date of this act in the form set forth in Section 7.5 of this act to incorporate the changes in Section 12679 proposed by this bill. Therefore, if this bill and Senate Bill 1297 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 1297 is chaptered before this bill and amends Section 12679, Section 7.5 of this act shall become operative on the effective date of this act and Section 7 of this act shall not become operative.

SEC. 16. It is the intent of the Legislature, if this bill and Senate Bill 1297 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 12686 of the Insurance

Code, and this bill is chaptered after Senate Bill 1297, that Section 12686 of the Insurance Code, as amended by Section 5 of Senate Bill 1297, be further amended on the effective date of this act in the form set forth in Section 10.5 of this act to incorporate the changes in Section 12686 proposed by this bill. Therefore, if this bill and Senate Bill 1297 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 1297 is chaptered before this bill and amends Section 12686, Section 10.5 of this act shall become operative on the effective date of this act and Section 10 of this act shall not become operative.

CHAPTER 1187

An act to add Section 99250 to the Public Utilities Code, relating to transportation.

[Approved by Governor September 18, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 99250 is added to the Public Utilities Code, to read:

99250. (a) All charter bus services authorized to be performed by a public transportation system receiving funding under this chapter shall contribute financially to the reduction of deficits incurred in the operation of scheduled route service. In addition, the charter bus service shall not interfere with regularly scheduled service to the public or compete unfairly with private operators where the private operators are willing and able to provide charter bus service.

(b) Except as provided in subdivision (d), charter bus service rates and minimums shall be established which are either of the following:

(1) At least equal to the average of the three lowest current rates charged by private charter bus carriers actually operating charters originating in the same service area of the public transportation system during the prior year.

(2) At least equal to the fully allocated cost of each charter operated. All terms and conditions, in addition to the base rate, shall be at least equal to the average of the three lowest current rates charged by private charter bus carriers actually operating a charter originating in the same service area of the public transportation system during the prior year.

(c) All charter bus service rates shall be reviewed and adjusted not less than semiannually to reflect variations in actual and assumed costs, as well as private charter bus carrier rates.

(d) If the operator of a public transportation system determines

that there is a public need that cannot otherwise be met, the operator may provide charter bus services to charitable or public service organizations at direct cost, not to exceed ten thousand dollars ($10,000) or a total of 40 charter buses per year, whichever occurs first.

CHAPTER 1188

An act to amend Section 17234 of the Revenue and Taxation Code, and to add Division 18.5 (commencing with Section 32000) to the Elections Code, relating to elections, and making an appropriation therefor.

[Approved by Governor September 18, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Division 18.5 (commencing with Section 32000) is added to the Elections Code, to read:

DIVISION 18.5. CALIFORNIA ELECTION CAMPAIGN FUND ACT

CHAPTER 1. FINDINGS AND POLICY

32000. This division shall be known and may be cited as the California Election Campaign Fund Act.

32001. The Legislature finds and declares:

(a) Candidates are now frequently dependent on large contributions from wealthy individuals and interest groups for campaign financing. Individuals and interest groups who make large contributions thus may enjoy disproportionate access to public officials and influence in government decisionmaking. Large contributions may also impede the solicitation of small contributions.

(b) This act seeks to reduce candidate dependence on large contributions and the excessive influence of large contributors, by providing qualified political parties with a campaign fund based on small contributions, which fund shall be used to assist candidates under the direction of the state parties and certain of their elected representatives.

CHAPTER 2. DESIGNATION BY INDIVIDUALS

32002. (a) Every individual, who is lawfully able to make contributions to qualified political parties in California, may designate the payment of one dollar ($1), five dollars ($5), ten dollars ($10), or twenty-five dollars ($25), in addition to his or her

income tax liability to be paid over to the California Election Campaign Fund in accordance with the provisions of this chapter. In the case of a joint return of individuals, each spouse may separately designate that one dollar ($1), five dollars ($5), ten dollars ($10), or twenty-five dollars ($25), shall be paid to that fund.

(b) For the purposes of subdivision (a), the California income tax liability of an individual for any taxable year is the amount of his or her total income tax liability for that taxable year pursuant to the applicable provisions of the Revenue and Taxation Code.

(c) If an individual chooses to contribute an amount as provided for in subdivision (a) to the California Election Campaign Fund under subdivision (a), he or she shall designate on the applicable California tax return which of the qualified political parties of the State of California the contribution shall benefit. The Franchise Tax Board shall revise the forms for reporting California tax liability in accordance with this section.

CHAPTER 3. PAYMENTS TO QUALIFIED POLITICAL PARTIES

32003. (a) There is hereby established in the State Treasury a special fund to be known as the California Election Campaign Fund (hereafter referred to as "the fund"), to which the Controller shall transfer an amount not in excess of the sum of the amounts certified by the Franchise Tax Board under subdivision (b). There is hereby appropriated to the fund for each fiscal year from the General Fund, an amount equal to the sum of the amounts so certified during each fiscal year, which shall remain available to the fund without fiscal year limitation; provided, however, that the Controller and the Franchise Tax Board may designate a reasonable amount to be retained by the state from the fund in order to compensate the state for reasonable administrative expenses connected with the operation of the fund.

(b) (1) On or before July 1 of each year, the Franchise Tax Board shall certify to the Controller the total amount designated by April 15 of that year for the benefit of each qualified political party in accordance with this section. On or before July 15 of each year, the Controller shall pay to each qualified political party from the fund the amount so certified.

(2) The Chair of the State Central Committee of each qualified political party is hereby authorized to receive payments on behalf of that party from the fund.

CHAPTER 4. QUALIFICATION OF POLITICAL PARTIES: DISBURSEMENT OF FUNDS

32004. On or before each calendar year, the Secretary of State shall forward to the Franchise Tax Board a list of qualified political parties. Qualification in the State of California shall be determined in accordance with Section 6430 of the Elections Code from the most

recent election for which officially canvassed results are available. Any sums designated to a political party which are not qualified pursuant to this section shall be retained by the state for its General Fund.

(a) The Chair of the State Central Committee of each political party receiving payments pursuant to this division shall segregate those moneys and disburse them only upon his or her determination that a majority of a committee composed as follows concurs in each such disbursement:

(1) Chair of that party.

(2) As to the majority party of the Assembly, its Speaker; or, as to each minority party of the Assembly, that party's Minority Leader.

(3) As to the majority party of the Senate, its President pro Tempore; or, as to each minority party of the Senate, that party's Minority Leader.

(b) As to any party unrepresented by both paragraphs (2) and (3) of subdivision (a), its chair shall be the sole member of the committee provided for in subdivision (a).

(c) As to any party unrepresented by one, but not both, of the categories specified in paragraphs (2) and (3) of subdivision (a), the two members of that committee provided for by subdivision (a) shall choose a third member to serve for each calendar year.

(d) Any funds received by a committee's political party which are disbursed by the committee to candidates shall be disbursed only to candidates for state office in connection with a statewide General Election.

SEC. 2. Section 17234 of the Revenue and Taxation Code is amended to read:

17234. In computing taxable income there shall be allowed as a deduction political contributions by any person not in excess of one hundred dollars ($100), in any year, except that no deduction shall be allowed for contributions which are designated pursuant to Section 32002 of the Elections Code.

CHAPTER 1189

An act to amend Sections 23958, 23958.3, and 24013 of the Business and Professions Code and to amend Section 9 of Chapter 1194 of the Statutes of 1980, relating to alcoholic beverages.

[Approved by Governor September 18, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 23958 of the Business and Professions Code, as amended by Section 1 of Chapter 1194 of the Statutes of 1980, is amended to read:

23958. For all licenses except retail package off-sale beer and wine licenses, upon receipt of an application for a license or for a transfer of a license and the applicable fee, the department shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license. The department shall also determine whether the provisions of this division have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The department shall deny an application for a license or transfer of a license if either the applicant or the premises for which a license is applied do not qualify for a license under this division.

The department further may deny an application for a license if issuance of such license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses and the applicant fails to show that public convenience or necessity would be served by such issuance.

This section shall remain in effect until January 1, 1984, and as of such date is repealed.

SEC. 2. Section 23958 of the Business and Professions Code, as added by Section 2 of Chapter 1194 of the Statutes of 1980, is amended to read:

23958. Upon receipt of an application for a license or for a transfer of a license and the applicable fee, the department shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license and whether the provisions of this division have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The department shall deny an application for a license or for a transfer of a license if either the applicant or the premises for which a license is applied do not qualify for a license under this division.

The department further may deny an application for a license if issuance of such license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses and the applicant fails to show that public convenience or necessity would be served by such issuance.

This section shall take effect January 1, 1984.

SEC. 3. Section 23958.3 of the Business and Professions Code is amended to read:

23958.3. For retail package off-sale beer and wine licenses, upon receipt of an application for a license or for transfer of a license and the applicable fee, the department shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license. The department shall also determine whether the provisions of this division have been complied with, and shall investigate all matters directly related to the issuance or transfer of such license which may affect the public welfare and morals. The department shall not, however, investigate any matters connected with the operation of a premises, such as

operating hours, parking availability or operating noise, other than those matters which, solely due to the sale of alcoholic beverages, might adversely affect the public welfare and morals. The department shall deny an application for a license or a transfer of a license if either the applicant or the premises for which a license is applied do not qualify for a license under this division.

The department further may deny an application for a license if issuance of such license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses and the applicant fails to show that public convenience or necessity would be served by such issuance.

This section shall remain in effect until January 1, 1984 and as of such date is repealed.

SEC. 4. Section 24013 of the Business and Professions Code, as amended by Section 4 of Chapter 1194 of the Statutes of 1980, is amended to read:

24013. Protests may be filed at any office of the department at any time within 30 days from the first date of posting the notice of intention to engage in the sale of alcoholic beverages at such premises.

The department may reject protests, except protests made by a public agency or public official or protests made by the governing body of a city or county, if it determines such protests are false, vexatious, or without reasonable or probable cause at any time before hearing thereon, notwithstanding the provisions of Section 24016 or 24300. The department shall also reject any protests against an off-sale beer and wine retail alcoholic beverage license which are based on evidence, information or conditions resulting from operation of the premises, such as operating hours, parking availability or operating noise, not resulting solely from the sale of alcoholic beverages. If the department rejects a protest as provided in this section and issues a license, a protestant whose protest has been rejected may, within 10 days after the issuance of the license, file an accusation with the department alleging the grounds of protest as a cause for revocation of the license and the department shall hold a hearing as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Nothing in this section shall be construed as prohibiting or restricting any right which the individual making the protest might have to a judicial proceeding.

This section shall remain in effect until January 1, 1984, and as of such date is repealed.

SEC. 5. Section 24013 of the Business and Professions Code, as added by Section 5 of Chapter 1194 of the Statutes of 1980, is amended to read:

24013. Protests may be filed at any office of the department at any time within 30 days from the first date of posting the notice of intention to engage in the sale of alcoholic beverages at such

premises.

The department may reject protests, except protests made by a public agency or public official or protests made by the governing body of a city or county, if it determines such protests are false, vexatious, or without reasonable or probable cause at any time before hearing thereon, notwithstanding the provisions of Section 24016 or 24300. If the department rejects a protest as provided in this section and issues a license, a protestant whose protest has been rejected may, within 10 days after the issuance of the license, file an accusation with the department alleging the grounds of protest as a cause for revocation of the license and the department shall hold a hearing as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Nothing in this section shall be construed as prohibiting or restricting any right which the individual making the protest might have to a judicial proceeding.

This section shall take effect January 1, 1984.

SEC. 6. Section 9 of Chapter 1194 of the Statutes of 1980 is amended to read:

Sec. 9. In furtherance of the provisions of this act, the Governor shall appoint a citizens committee to study the effects of the provisions contained in Sections 1, 3, and 4 of this act and to report the results of such study to the Governor and Legislature on or before July 1, 1983.

CHAPTER 1190

An act to amend Sections 6556, 10333, 15023, 15208, 16002, 16004, 16005, 16006, and 16007 of, to repeal Sections 15001 and 15002 of, and to repeal and add Chapter 2 (commencing with Section 15100) of Division 11 of, the Elections Code, relating to elections.

[Approved by Governor September 18, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 6556 of the Elections Code is amended to read:

6556. The county clerk shall pay to the county treasurer all fees received from candidates pursuant to Section 6554. Within 10 days after the direct primary, the Secretary of State shall pay to the State Treasurer all fees received from candidates pursuant to Section 6552, which shall be deposited in the General Fund.

It is the intention of the Legislature that the funds deposited in the General Fund pursuant to this section will be used by the Secretary of State in the performance of his or her duties pursuant to Division 11 (commencing with Section 15000), to the extent that

appropriations are made in the Budget Act from year to year.

SEC. 2. Section 10333 of the Elections Code is amended to read:

10333. In approving ballots and ballot cards the Secretary of State shall not give his or her approval unless the following are true:

(a) The size, shape, and texture of the ballot card is suitable for use in the automatic device in which it is intended to be placed.

(b) The ballot cards are so designed that they can readily be arranged with a section or ballot stub containing the serial number of the ballot, and a section with places for the voter to slot or punch holes indicating his choices of candidates and votes on measures.

(c) If the ballot is to consist of two or more series of cards, appropriate provision may be made for identifying the related series which comprise the ballot.

SEC. 3. Section 15001 of the Elections Code is repealed.

SEC. 4. Section 15002 of the Elections Code is repealed.

SEC. 5. Section 15023 of the Elections Code is amended to read:

15023. The governing board may adopt for use at elections any kind of voting system or any combination of voting systems or any combination of a voting system and paper ballots provided that the use of the voting system or systems involved has been approved by the Secretary of State or specifically authorized by law. The voting system or systems may be used at any or all elections held in any county, city, or any of their political subdivisions for voting, registering, and counting votes cast. When more than one voting system is used to count ballots, the names of candidates shall, insofar as possible, be placed upon the primary voting system. When more than one voting system or a combination of a voting system and paper ballots is used to count ballots, a single ballot measure or the candidates for a single office may not be split between voting systems or between a voting system and paper ballots.

SEC. 6. Chapter 2 (commencing with Section 15100) of Division 11 of the Elections Code is repealed.

SEC. 7. Chapter 2 (commencing with Section 15100) is added to Division 11 of the Elections Code, to read:

CHAPTER 2. VOTING SYSTEMS: GENERALLY

Article 1. Voting Machine and Vote Tabulating Devices

15100. The Secretary of State shall study and adopt regulations governing the use of voting machines, voting devices, and vote tabulating devices.

15101. The Secretary of State may make all arrangements for the time and place to examine voting equipment proposed to be sold in this state. He or she shall furnish a complete report of the findings of the examining engineers to the Governor and the Attorney General.

15102. The Chairman of the Senate Standing Committee on Elections and Reapportionment and the Chairman of the Assembly

Standing Committee on Elections and Reapportionment shall meet with the Secretary of State and assist the Secretary of State to the extent that such participation is not incompatible with their positions as Members of the Legislature. For the purposes of this division, the chairmen of the committees named shall constitute a joint interim legislative committee on the subject of this chapter and shall have the powers and duties imposed upon such committees by the Joint Rules of the Senate and Assembly.

15103. The Secretary of State may investigate any alleged violation of his or her regulations with power to subpoena all necessary persons and records.

15104. Prior to giving its decision approving or withholding approval of any voting machine, voting device, or vote tabulating device, the Secretary of State shall hold a public hearing to give persons interested an opportunity to express their views for or against the machine or device.

The Secretary of State shall give notice of the hearing in the manner prescribed in Section 6064 of the Government Code in a newspaper of general circulation published in Sacramento County. The Secretary of State shall also transmit written notice of the hearing, at least 30 days prior to the hearing, to each county clerk, to any person that the Secretary of State believes will be interested in the hearing, and to any person who requests, in writing, notice of any such hearing.

The decision of the Secretary of State, either approving or withholding approval of a voting machine, voting device, or vote tabulating device, shall be in writing and shall state the findings of the secretary. The decision shall be open to public inspection.

Article 2. Approval of Voting Systems

15110. The Secretary of State shall not approve any voting system, or part of a voting system, unless it fulfills the requirements of this code and the regulations of the Secretary of State.

15111. No voting system, in whole or in part, shall be used unless it has received the approval of the Secretary of State, prior to any election at which it is to be first used.

15112. Any person or corporation owning or being interested in any voting system or part of a voting system may apply to the Secretary of State to examine it and report on its accuracy and efficiency to fulfill its purpose. The Secretary of State shall complete his or her examination without undue delay.

15113. The Secretary of State shall establish the specifications for and the regulations governing voting machines, voting devices, and vote tabulating devices and any software used for each including the programs and procedures for vote tabulating and testing. The criteria for establishing such specifications and regulations shall include, but not be limited to, the following:

(a) The machine or device and its software shall be suitable for

the purpose for which it is intended.

(b) The system shall preserve the secrecy of the ballot.

(c) The system shall be safe from fraud or manipulation.

15114. For the purpose of assistance in examining a voting system the Secretary of State may employ not more than three expert electronic technicians at a cost to be set by the Secretary of State. The compensation of the electronic technicians shall be paid by the person or corporation submitting the machine or device.

The Secretary of State may require the person or corporation submitting the machine or device to deposit sufficient funds to guarantee the payment of the examination charges. The Secretary of State may deposit the funds in an appropriate treasury trust account and, within 30 days after his or her report of examination, draw a refund check to the credit of the person or corporation for any amount in excess of costs.

15115. Within 30 days after completing the examination of any voting system, the Secretary of State shall place on file a report stating whether in his or her opinion the kind of voting system examined can safely be used. The report shall also contain a written or printed description and drawings and photographs clearly identifying the machine or device and its mechanical operation.

15116. If the report states that the voting system can be used, it shall be deemed approved by the Secretary of State and machines or devices of its kind may be adopted for use at elections.

15117. Within 10 days after filing the report, the Secretary of State shall send a copy to the board of supervisors of each county.

15118. When a voting system or a part of a voting system has been approved by the Secretary of State, it shall not be changed or modified until the Secretary of State has been notified in writing and determined that the change or modification does not impair its accuracy and efficiency sufficient to require a reexamination and reapproval pursuant to this article. The Secretary of State may adopt rules and regulations governing the procedures to be followed in making his or her determination as to whether the change or modification impairs accuracy or efficiency.

15119. The elections official of any county or city using voting or vote tabulating equipment shall inspect the machines or devices at least once every two years to determine their accuracy. Any county or city using leased or rented equipment shall determine if the equipment has been inspected for accuracy within the last two years before using it for any election. The inspection shall be made in accordance with regulations adopted and promulgated by the Secretary of State. The elections official shall certify the results of the inspection to the Secretary of State.

15120. If the Secretary of State has reason to believe that a local inspection of equipment is not adequate, he or she may cause the equipment to be reexamined, at any time prior to six months before a statewide election, to insure that they tabulate votes accurately.

For the purpose of reexamining voting equipment the Secretary

of State may employ not more than three expert technicians at a cost to be determined by the Secretary of State. The compensation of the technicians shall be paid by the county using the equipment examined.

The Secretary of State may make all arrangements for the time and place to examine the voting equipment, and shall furnish a complete report of the findings of the examining engineers to the Governor, to the Attorney General, to each county elections official, to the chairmen of the elections committees of the Assembly and Senate, and to the manufacturer of the equipment.

15121. Voting equipment may be loaned or rented for any purposes with the consent of the board of supervisors, if payment for the expenses incident to the use of the machine is made.

15122. The Secretary of State shall review voting systems periodically to determine if they are defective, obsolete, or otherwise unacceptable. The Secretary of State has the right to withdraw his or her approval previously granted under this article of any voting system or part of a voting system should it be defective or prove unacceptable after such review. Six months' notice must be given before withdrawing approval unless the Secretary of State for good cause shown shall make a determination that a shorter notice period is necessary. Any withdrawal by the Secretary of State of his or her previous approval of a voting system or part of a voting system shall not be effective as to any election conducted within six months of such withdrawal.

SEC. 8. Section 15208 of the Elections Code is amended to read:

15208. A copy of each election computer vote count program for a statewide election or state special election to fill vacancies shall be deposited with the Secretary of State at least one week before the election. Copies of any subsequent alterations in the program shall be deposited in the same manner prior to the election.

The Secretary of State shall hold the deposited programs for a period of not less than six months, at which time the program shall be returned to the depositor. The programs deposited in accord with this section shall be used only for an official recount, court action or for logic and accuracy tests required by the Secretary of State.

SEC. 9. Section 16002 of the Elections Code is amended to read:

16002. The Secretary of State shall prescribe, by regulation, the procedures to be followed in the early collection and processing of ballots.

SEC. 10. Section 16004 of the Elections Code is amended to read:

16004. The regulations of the Secretary of State shall provide a system by which all persons who handle ballots, and the number of ballots transferred from place to place, may be identified.

SEC. 11. Section 16005 of the Elections Code is amended to read:

16005. The regulations of the Secretary of State may authorize the use of more than one ballot box or ballot container.

SEC. 12. Section 16006 of the Elections Code is amended to read:

16006. The regulations of the Secretary of State may authorize

persons other than precinct boards to process ballots and certify the number of ballots processed, cancelled, spoiled or duplicated.

SEC. 13. Section 16007 of the Elections Code is amended to read:

16007. The regulations of the Secretary of State shall provide for the protection of the secrecy of the ballot and the prevention of premature release and tabulation of the results.

CHAPTER 1191

An act to amend Sections 4024.2 and 4025 of the Penal Code, relating to county jails.

[Approved by Governor September 18, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 4024.2 of the Penal Code is amended to read:

4024.2. (a) Notwithstanding any other provision of law, the board of supervisors of any county may authorize the sheriff or other official in charge of county correctional facilities to offer a voluntary program under which any person committed to such facility may perform 10 hours of labor on the public works or ways in lieu of one day of confinement.

As used in this section "labor on the public works and ways" means manual labor to improve or maintain public facilities, including but not limited to, streets, parks, and schools.

(b) The board of supervisors may prescribe reasonable rules and regulations under which such labor is to be performed and may provide that such persons wear clothing of a distinctive character while performing such work.

(c) Nothing in this section shall be construed to require the sheriff or other such official to assign labor to a person pursuant to this section if it appears from the record that such person has refused to satisfactorily perform labor as assigned or has not satisfactorily complied with the reasonable rules and regulations governing such assignment.

A person shall be eligible for work release under this section only if the sheriff or other such official concludes that such person is a fit subject therefor.

(d) If the court sentences the defendant to a period of confinement of 15 days or more, it may restrict or deny his or her eligibility for the work release program.

(e) The board of supervisors may prescribe a program administrative fee, not to exceed the pro rata cost of administration, to be paid by each such person according to his or her ability to pay.

(f) This section shall remain in effect until January 1, 1990, and on

that date is repealed.

SEC. 2. Section 4025 of the Penal Code is amended to read:

4025. (a) The sheriff of each county may establish, maintain and operate a store in connection with the county jail and for this purpose may purchase confectionery, tobacco and tobacco users' supplies, postage and writing materials, and toilet articles and supplies and to sell such goods, articles, and supplies for cash to inmates in such jail.

(b) The sale prices of the articles offered for sale at the store shall be fixed by the sheriff. Any profit shall be deposited in an inmate welfare fund to be kept in the treasury of the county.

(c) There shall also be deposited in the inmate welfare fund 10 percent of all gross sales of inmate hobbycraft.

(d) The money and property deposited in the inmate welfare fund shall be expended by the sheriff solely for the benefit, education, and welfare of the inmates confined within the jail. An itemized report of such expenditures shall be submitted annually to the board of supervisors.

(e) The operation of a store within any other county adult detention facility which is not under the jurisdiction of the sheriff shall be governed by the provisions of this section, except that the board of supervisors shall designate the proper county official to exercise the duties otherwise allocated in this section to the sheriff.

(f) The operation of a store within any city adult detention facility shall be governed by the provisions of this section, except that city officials shall assume the respective duties otherwise outlined in this section for county officials.

(g) The treasurer may, pursuant to Article 1 (commencing with Section 53600), or Article 2 (commencing with Section 53630), of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, deposit, invest, or reinvest any part of the inmate welfare fund, in excess of that which the treasurer deems necessary for immediate use. The interest or increment accruing on such funds shall be deposited in the inmate welfare fund.

(h) The sheriff may expend money from the inmate welfare fund to provide indigent inmates, prior to release from the county jail or any other adult detention facility under the jurisdiction of the sheriff, with essential clothing and transportation expenses within the county.

CHAPTER 1192

An act to amend Sections 41856, 44215, and 44235 of, to repeal and add Section 39807.5 of, and to add Section 42241.4 to, the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 39807.5 of the Education Code, as amended by Section 2 of Chapter 776 of the Statutes of 1979, is repealed.

SEC. 2. Section 39807.5 of the Education Code, as added by Section 3 of Chapter 776 of the Statutes of 1979, is repealed.

SEC. 3. Section 39807.5 is added to the Education Code, to read:

39807.5. When the governing board of any school district provides for the transportation of pupils to and from schools in accordance with the provisions of Section 39800, or between the regular full-time day schools they would attend and the regular full-time occupational training classes attended by them as provided by a regional occupational center or program, the governing board of the district may require the parents and guardians of all or some of the pupils transported, to pay a portion of the cost of such transportation in an amount determined by the governing board.

The amount determined by the board shall be no greater than the statewide average nonsubsidized cost of providing such transportation to a pupil on a publicly owned or operated transit system as determined by the Superintendent of Public Instruction, in cooperation with the Department of Transportation.

For the purposes of this section, "nonsubsidized cost" means actual operating costs less federal subventions.

The governing board shall exempt from these charges pupils of parents and guardians who are indigent as set forth in rules and regulations adopted by the board.

No charge under this section shall be made for the transportation of handicapped children.

Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of pupils in the schools.

SEC. 4. Section 41856 of the Education Code is amended to read:

41856. (a) For the 1981–82 fiscal year, from Section A of the State School Fund the Superintendent of Public Instruction shall apportion to each school district the amount of its approved home-to-school transportation costs for the previous fiscal year, but not to exceed 1.06 times the sum of the reduction made pursuant to subdivision (e) of Section 42241, the state reimbursement received in the prior fiscal year for home-to-school transportation costs, and the state apportionment, if any, received in the prior fiscal year pursuant to former Section 41855. Districts not submitting a 1979–80 fiscal year State Department of Education transportation cost report for approval may do so and the superintendent shall determine the approved costs in the same manner as for those districts having submitted a report.

(b) For the 1982–83 fiscal year and each fiscal year thereafter, from Section A of the State School Fund, the superintendent shall

apportion to each district the amount apportioned in the 1981–82 fiscal year pursuant to subdivision (a) reduced by the amount added to the district revenue limit pursuant to subdivision (a) of Section 42241.4 or to be increased by the amount subtracted from the district revenue limit pursuant to subdivision (b) of Section 42241.4, whichever is applicable, cumulatively increased by the amount provided in the Budget Act.

(c) In no event shall the amount apportioned pursuant to subdivision (b) exceed the district's actual approved home-to-school transportation costs for the prior fiscal year.

SEC. 5. Section 44215 of the Education Code, as added by Assembly Bill 3472 of the 1981–82 Regular Session, is amended to read:

44215. Fees shall be levied by the commission for the issuance and renewal of teaching and service credentials. The fees shall be set by the commission in such a manner that revenues sufficient to support all activities and functions, including continuing research and evaluation activities, shall be produced. In no case shall a fee exceed forty dollars ($40) without express legislative approval.

A single fee, not to exceed the charge for a single supplemental credential, shall be charged for all supplemental credentials applied for at the same time.

SEC. 6. Section 44235 of the Education Code is amended to read:

44235. Fees shall be levied by the commission for the issuance and renewal of teaching and service credentials. The fees shall be set by the commission in such a manner that revenues sufficient to support all activities and functions, including continuing research and evaluation activities, shall be produced. In no case shall a fee exceed forty dollars ($40) without express legislative approval.

A single fee, not to exceed the charge for a single supplemental credential, shall be charged for all supplemental credentials applied for at the same time.

SEC. 7. Section 42241.4 is added to the Education Code, to read:

42241.4. (a) Prior to the calculation of the annual inflation increase to the revenue limit pursuant to Section 42238, a district may increase its revenue limit per unit of average daily attendance by any amount up to (1) the allowance received for home-to-school transportation pursuant to Section 41856 in the prior fiscal year minus the allowance received for home-to-school transportation in the 1980–81 fiscal year pursuant to Sections 41855 and 41856 as they read in the 1980–81 fiscal year, divided by (2) the number of units of average daily attendance for revenue limit purposes in the prior fiscal year.

(b) Prior to the calculation of the annual inflation increase to the revenue limit pursuant to Section 42238, a district may decrease its revenue limit per unit of average daily attendance by any amount up to (1) the maximum total dollar amount by which a district could have decreased its revenue limit pursuant to subdivision (e) of Section 42241 minus the total dollar amount by which a district did

decrease its revenue limit pursuant to subdivision (e) of Section 42241, divided by (2) the number of units of average daily attendance for revenue limit purposes in the prior fiscal year.

(c) Any amount added to or deleted from the revenue limit pursuant to subdivision (a) or (b) shall also be added to or deleted from the minimum revenue guarantee calculated pursuant to paragraph (1) of subdivision (j) of Section 42238.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill 3472 are both chaptered and become effective on or before January 1, 1983, this bill amends Section 44235 of the Education Code and Assembly Bill 3472 repeals that section, and adds Section 44215, and this bill is chaptered after Assembly Bill 3472, that the amendments proposed by both bills be given effect and incorporated in Section 44215 in the form set forth in Section 5 of this act. Therefore, Section 5 of this act shall become operative only if this bill and Assembly Bill 3472 are both chaptered and become effective on or before January 1, 1983, and this bill is chaptered after Assembly Bill 3472, in which case Section 5 of this act shall become operative on the effective date of Assembly Bill 3472, or as soon as possible thereafter, and Section 6 of this act shall cease to be operative on that date.

It is the intent of the Legislature that if Assembly Bill 3472 is not chaptered, and this bill is chaptered, the amendments to Section 44235 of the Education Code, in the form set forth in Section 6 of this act, shall become operative.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that school districts which provide for the transportation of pupils to and from schools and which receive state reimbursement for such transportation may continue to require the parents and guardians of the pupils transported to pay a portion of the costs, and in order to ensure that qualified teachers are able to obtain supplementary authorizations at a reasonable cost for the 1982–83 school year it is necessary that this act take effect immediately.

CHAPTER 1193

An act to amend Sections 12940 and 12960 of the Government Code, relating to fair employment practices.

[Approved by Governor September 18, 1982. Filed with Secretary of State September 20, 1982.]

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

SECTION 1. Section 12940 of the Government Code is amended to read:

12940. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge such person from employment or from a training program leading to employment, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of a physically handicapped employee, where the employee, because of his or her physical handicap, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger his or her health or safety or the health and safety of others.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others.

(3) Nothing in this part relating to discrimination on account of marital status shall either (i) affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission, or (ii) prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to Vietnam era veterans.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to exclude, expel or restrict from its membership such person, or to provide only second-class or

segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any nonjob-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, or any intent to make any such limitation, specification or discrimination. Nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified or assisted in any proceeding under this part.

(f) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(g) For the governing board of a school district to violate Section 44066 or 87402 of the Education Code.

(h) For an employer, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any agents or supervisors of these entities, because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age, to harass an employee or applicant. Harassment of an employee or applicant by an employee other than an agent or supervisor shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take immediate and appropriate

corrective action. An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment. The provisions of this subdivision are declaratory of existing law.

SEC. 2. Section 12940 of the Government Code is amended to read:

12940. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge such person from employment or from a training program leading to employment, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of a physically handicapped employee, where the employee, because of his or her physical handicap, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger his or her health or safety or the health and safety of others.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform such duties in a manner which would not endanger the employee's health or safety or the health or safety of others.

(3) Nothing in this part relating to discrimination on account of marital status shall either (i) affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission, or (ii) prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to Vietnam Era veterans.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to exclude, expel or restrict from its membership such person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any nonjob-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, or any intent to make any such limitation, specification or discrimination. Nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization or employment agency to harass, discharge, expel or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code.

(f) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified or assisted in any proceeding under this part.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(h) For the governing board of a school district to violate Section 44066 or 87402 of the Education Code.

(i) For an employer, labor organization, employment agency,

apprenticeship training program or any training program leading to employment, or any other person, because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age, to harass an employee or applicant. Harassment of an employee or applicant by an employee other than an agent or supervisor shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take immediate and appropriate corrective action. An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment. The provisons of this subdivision are declaratory of existing law.

SEC. 3. Section 12960 of the Government Code is amended to read:

12960. The provisions of this article govern the procedure for the prevention and elimination of practices made unlawful pursuant to Article 1 (commencing with Section 12940) of Chapter 6.

Any person claiming to be aggrieved by an alleged unlawful practice may file with the department a verified complaint in writing which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the department. The director or his or her authorized representative may in like manner, on his or her own motion, make, sign and file such complaint. Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this part may file with the department a verified complaint asking for assistance by conciliation or other remedial action.

No complaint may be filed after the expiration of one year from the date upon which the alleged unlawful practice or refusal to cooperate occurred; except that this period may be extended for not to exceed 90 days following the expiration of that year, if a person allegedly aggrieved by an unlawful practice first obtained knowledge of the facts of the alleged unlawful practice after the expiration of one year from the date of their occurrence.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 1805 are both chaptered and become effective January 1, 1983, both bills amend Section 12940 of the Government Code, and this bill is chaptered after Assembly Bill 1805, that the amendments to Section 12940 proposed by both bills be given effect and incorporated in Section 12940 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill 1805 are both chaptered and become effective January 1, 1983, both amend Section 12940, and this bill is chaptered after Assembly Bill 1805, in which case Section 1 of this act shall not become operative.

CHAPTER 1194

An act to add Section 22312 to the Education Code, and to amend Sections 7602, 7603, and 31595.4 of, and to add Section 20210 to, the Government Code, relating to public funds.

[Approved by Governor September 19, 1982. Filed with Secretary of State September 21, 1982.]

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

SECTION 1. It is the intent of the Legislature to reduce risk in the common stock portfolios of the state and local agency funds through the sale and purchase of exchange-traded call options on common stock.

SEC. 2. Section 22312 is added to the Education Code, to read:

22312. Notwithstanding any other provision of law, the board may enter into security loan agreements pursuant to the provisions of Division 8 (commencing with Section 7600) of Title 1 of the Government Code with respect to securities which the board is authorized by law to invest in.

The board may sell exchange-traded call options only through an exchange, and only with respect to stock owned by the system. Common stock that is obligated under an unexpired written call option shall not be sold unless the board first enters into a closing purchase transaction.

The board may purchase exchange-traded options only through an exchange and only for the purpose of a closing purchase transaction.

SEC. 3. Section 7602 of the Government Code is amended to read:

7602. A state agency which is authorized pursuant to Section 22312 of the Education Code and Sections 16481 and 20208.5 of the Government Code may enter into security loan agreements with broker-dealers and with any state or national banks for the purpose of prudently supplementing the income normally received from investments.

SEC. 4. Section 7603 of the Government Code is amended to read:

7603. All loans of securities shall be made pursuant to one of the standardized security loan agreement forms, as developed by the administrators of the State Pooled Investment Account (as authorized by Section 16481 of the Government Code) or the Public Employees Retirement System or the State Teachers' Retirement System and as approved by the Commissioner of Corporations.

SEC. 5. Section 20210 is added to the Government Code, to read:

20210. The board may sell exchange-traded call options only through an exchange, and only with respect to stock owned by the system. Common stock that is obligated under an unexpired written call option shall not be sold unless the board first enters into a closing

purchase transaction.

The board may purchase exchange traded options only through an exchange and only for the purpose of a closing purchase transaction.

SEC. 6. Section 31595.4 of the Government Code is amended to read:

31595.4. (a) Notwithstanding the provisions of Section 31595, in addition to such other investments as are authorized by this article, the 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 10 percent of the assets in the first two years after the effective date of this section, not to exceed 15 percent during the third year after the effective date of this section, and not to exceed 25 percent thereafter, in common stock or shares, and not to exceed 2 percent of the assets in the first year after the effective date of this section, not to exceed 3 percent during the second year after the effective date of this section, and not to exceed 5 percent thereafter, 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

(1) 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:

(A) 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);

(B) 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);

(C) Any preferred stock.

(2) Such corporation has total assets of at least one hundred million dollars ($100,000,000);

(3) 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;

(4) 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;

(5) Such investment in any one company may not exceed 5 percent of the common shares outstanding; and

(6) No single common stock investment, based on cost, may exceed 2 percent of the assets of the fund.

(b) Notwithstanding any other provision of law, the board may enter into security loan agreements pursuant to the provisions of Division 8 (commencing with Section 7600) of Title 1 with respect

to securities in which the board is authorized by law to invest.

(c) The board may enter into security loan agreements with broker-dealers and with any state or national banks for the purpose of prudently supplementing the income normally received from investments.

(d) All loans of securities shall be made pursuant to one of the standardized loan agreement forms, as developed by the administrators of the State Pooled Investment Account (as authorized by Section 16481 of the Government Code) or the Public Employees' Retirement System or the State Teachers' Retirement System or any county pooled investment account and as approved by the Commissioner of Corporations.

(e) The board may sell exchange-traded call options only through an exchange, and only with respect to stock owned by the board. Common stock that is obligated under an unexpired written call option shall not be sold unless the board first enters into a closing purchase transaction.

(f) The board may purchase exchange-traded options only through an exchange and only for the purpose of a closing purchase transaction.

CHAPTER 1195

An act to amend Section 92030 of, and to add Sections 92020, 92032, and 92033 to, the Education Code, relating to the University of California.

[Approved by Governor September 20, 1982. Filed with Secretary of State September 21, 1982.]

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

SECTION 1. Section 92030 of the Education Code is amended to read:

92030. All meetings of the Regents of the University of California shall, except as otherwise provided in this article, be subject to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 92020 is added to the Education Code, to read:

92020. As used in this article, "Regents of the University of California" means the Board of Regents of the University of California and its standing and special committees or subcommittees, other than groups of not more than three regents appointed to advise and assist the university administration in contract negotiations.

SEC. 3. Section 92032 is added to the Education Code, to read:

92032. Notwithstanding any provisions in Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code:

(a) The Regents of the University of California may, as occasioned by necessity, hold special meetings. The regents shall give public notice for these meetings. This notice shall be given by means of a notice hand delivered or mailed to any newspaper of general circulation, or any television or radio station, so that the notice may be published or broadcast at least 72 hours before the time of the meeting. The notice shall specify the time, place, and agenda of the special meeting. The regents shall not consider any business not included in the agenda portion of the notice. Failure to satisfy the provisions of this subdivision shall not be excused by the fact that no action was taken at the special meeting.

(b) The Regents of the University of California may conduct closed sessions when it meets to consider or discuss:

(1) Matters affecting the national security.

(2) The conferring of honorary degrees or other honors or commemorations.

(3) Matters involving gifts, devises and bequests.

(4) Matters involving the purchase or sale of investments for endowment and pension funds.

(5) Matters involving litigation, when discussion in open session concerning those matters would adversely affect, or be detrimental to, the public interest.

(6) The acquisition or disposition of property, if discussion of these matters in open session could adversely affect the regents' ability to acquire or dispose of the property on the terms and conditions it deems to be in the best public interest.

(7) Matters concerning the appointment, employment, performance, compensation, or dismissal of university officers or employees, excluding individual regents other than the president of the university. This paragraph shall not include meetings of the nominating committee held for the purpose of proposing officers of the board and members of its various committees.

(8) Matters relating to complaints or charges brought against university officers or employees, excluding individual regents other than the president of the university, unless the officer or employee requests a public hearing.

(c) While a witness is being examined during any open or closed session, any or all other witnesses in the investigation may be excluded from the proceedings by the regents.

SEC. 4. Section 92033 is added to the Education Code, to read:

92033. The Regents of the University of California shall provide a copy of this article and Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, to each regent upon his or her appointment to the board or assumption of the office of regent.

SEC. 5. 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 1196

An act to amend Section 2954 of the Civil Code, and to amend Sections 750, 751, 772, 1202, 1335, 1336, 1369 and 6705.8 of, and to add Sections 751.3, 751.7, 777 and 778 to, the Financial Code, relating to financial institutions.

[Approved by Governor September 20, 1982. Filed with Secretary of State September 21, 1982.]

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

SECTION 1. Section 2954 of the Civil Code is amended to read:

2954. (a) No impound, trust or other type of account for payment of taxes on the property, insurance premiums or other purposes relating to the property shall be required as a condition of a real property sale contract or a loan secured by a deed of trust or mortgage on real property containing only a single-family, owner-occupied dwelling, except: (1) where required by a state or federal regulatory authority; or (2) where a loan is made, guaranteed, or insured by a state or federal governmental lending or insuring agency; or (3) upon a failure of the purchaser or borrower to pay two consecutive tax installments on the property prior to the delinquency date for such payments; or (4) where the original principal amount of such a loan is (i) 90 percent or more of the sale price, if the property involved is sold, or is (ii) 90 percent or more of the appraised value of the property securing the loan; or (5) whenever the combined principal amount of all loans secured by the real property exceeds 80 percent of the appraised value of the property securing the loans. Nothing contained in this section shall preclude establishment of such an account on terms mutually agreeable to the parties to the loan, if, prior to the execution of the loan or sale agreement, the seller or lender has furnished to the purchaser or borrower a statement in writing, which may be set forth in the loan application, to the effect that the establishment of such an account shall not be required as a condition to the execution of the loan or sale agreement, and further, stating whether or not interest will be paid on the funds in such an account.

An impound, trust, or other type of account for the payment of taxes, insurance premiums or other purposes relating to property established in violation of this subdivision is voidable, at the option of the purchaser or borrower, at any time, but shall not otherwise affect the validity of the loan or sale.

(b) Every mortgagee of real property, beneficiary under a deed of trust on real property or vendor on a real property sale contract upon the written request of the mortgagor, trustor or vendee shall

furnish to the mortgagor, trustor or vendee for each calendar year within 60 days after the end of such year an itemized accounting of moneys received for interest and principal repayment and received and held in or disbursed from an impound or trust account, if any, for payment of taxes on the property, insurance premiums or other purposes relating to the property subject to the mortgage, deed of trust or real property sale contract. The mortgagor, trustor or vendee shall be entitled to receive one such accounting for each calendar year without charge and shall be entitled to additional similar accountings for one or more months upon written request and on payment in advance of fees as follows:

(1) Fifty cents ($0.50) per statement when requested in advance on a monthly basis for one or more years.

(2) One dollar ($1) per statement when requested for only one month.

(3) Five dollars ($5) if requested for a single cumulative statement giving all the information described above back to the last statement rendered.

If the mortgagee, beneficiary or vendor transmits to the mortgagor, trustor or vendee a monthly statement or passbook showing moneys received for interest and principal repayment and received and held in and disbursed from an impound or trust account, if any, the mortgagee, beneficiary or vendor shall be deemed to have complied with this section.

No increase in the monthly rate of payment of a mortgagor, trustor or vendee on a real property sale contract for impound or trust accounts shall be effective until after the mortgagee, beneficiary or vendor has furnished the mortgagor, trustor or vendee with an itemized accounting of the moneys presently held by it in the accounts, and a statement of the new monthly rate of payment, and an explanation of the factors necessitating the increase.

The provisions of this section shall be in addition to the obligations of the parties as stated by Section 2943 of this code.

Every person who willfully or repeatedly violates this subdivision shall be subject to punishment by a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) As used in this section, "single-family, owner-occupied dwelling" means a dwelling which will be owned and occupied by a signatory to the mortgage or deed of trust secured by such dwelling within 90 days of the execution of such mortgage or deed of trust.

SEC. 2. Section 750 of the Financial Code is amended to read:

750. A bank or trust company may purchase, acquire, hold, or lease real property or an interest therein only as follows:

(a) Such as may be necessary or convenient for the use, operation or housing of its head office and branch offices, or for the storage of records or other personal property, or for office space for use by its officers or employees, or which may be reasonably necessary for future expansion of its business, or which is otherwise reasonably related to the conduct of its business. Real property used by a bank

as its banking premises may include in addition to the space required for the transaction of its business other space which may be let as a source of income.

(b) Such as may be conveyed to it in satisfaction in whole or in part of debts previously contracted in the course of its business.

(c) Such as it may purchase or acquire at foreclosure sales under mortgages or deeds of trust held by it, or under judgments or decrees in its favor.

(d) Such as it may purchase or otherwise acquire when necessary to minimize or prevent the loss or destruction of any lien or interest therein.

(e) Such as it may purchase or otherwise acquire pursuant to Section 751.3.

A bank or trust company may sell, lease, or encumber real property or any interest therein owned by it, or, with the written approval of the superintendent, exchange the same for other real property.

SEC. 3. Section 751 of the Financial Code is amended to read:

751. Any real property not held for any purpose permitted by subdivisions (a) and (e) of Section 750 shall be sold whenever the same can be sold for an amount sufficient to reimburse the bank or trust company for all loss arising out of the loan for which such real property was security or arising out of the original investment. A bank or trust company shall not by the retention of any real property acquired pursuant to this section engage in any business not authorized by this division except to the extent necessary in the orderly liquidation of an indebtedness owing to the bank.

SEC. 4. Section 751.3 is added to the Financial Code, to read:

751.3. (a) The Legislature finds and declares:

(1) That it is necessary to increase job opportunities in real estate development and construction and to provide additional housing and commercial facilities in this state.

(2) That within the commercial banking community there exists the expertise and ability to promote and assist in expansion of real estate development projects in this state.

(3) That it is proper and appropriate to utilize that expertise and ability by authorizing commercial banks to engage in real estate development and management on an entrepreneurial basis.

(b) Notwithstanding the provisions of Section 1335, a commercial bank may acquire and hold voting stock of one or more corporations the activities of which are primarily investment in real property. Such investment may include subdividing and developing real property and building residential housing or commercial improvements on such property. Any such corporation may own, rent, lease, manage, operate for income, or sell such property.

(c) The total of all investments, loans and guarantees made by a commercial bank pursuant to the authority of subdivision (b), unless a higher percentage is approved by the superintendent in writing, shall not exceed 10 percent of the total assets of the bank.

(d) This section shall become operative on the effective date of federal legislation or regulation which contains provisions which are identical to this section or provisions which are substantially similar to this section as determined by the Secretary of the Business, Transportation and Housing Agency, or on January 1, 1984, whichever occurs first. Upon making such a determination, the Secretary shall notify the Legislature and the Legislative Counsel.

SEC. 5. Section 751.7 is added to the Financial Code, to read:

751.7. A commercial bank may provide real estate appraisal services and may charge a fee therefor.

This section shall become operative on the effective date of federal legislation or regulation which contains provisions which are identical to this section or provisions which are substantially similar to this section as determined by the Secretary of the Business, Transportation and Housing Agency, or on January 1, 1984, whichever occurs first. Upon making such a determination, the Secretary shall notify the Legislature and the Legislative Counsel.

SEC. 6. Section 772 of the Financial Code is amended to read:

772. (a) Notwithstanding the provisions of Section 1335, and subject to such regulations and rules as the superintendent may prescribe, a bank may invest in the capital stock, obligations, or other securities of one or more corporations.

(b) No such corporation may act as an insurance company, insurance agent, or insurance broker. This prohibition shall not be deemed to exclude other possible restrictions with respect to the activities of such corporations.

SEC. 7. Section 777 is added to the Financial Code, to read:

777. A commercial bank may provide management consulting advice and services and may charge a fee therefor.

This section shall become operative on the effective date of federal legislation or regulation which contains provisions which are identical to this section or provisions which are substantially similar to this section as determined by the Secretary of Business, Transportation and Housing Agency, or on January 1, 1984, whichever occurs first. Upon making such a determination, the Secretary shall notify the Legislature and the Legislative Counsel.

SEC. 8. Section 778 is added to the Financial Code, to read:

778. (a) A commercial bank may provide electronic data processing services and may charge a fee therefor.

(b) As used in this section, "electronic data processing" means the process that encompasses all computerized and auxiliary automated information handling, including systems analysis and design, conversion of data, computer programming, information storage and retrieval, data transmission, requisite system controls, simulation, and all the related operator-machine interaction.

(c) This section shall become operative on the effective date of federal legislation or regulation which contains provisions which are identical to this section or provisions which are substantially similar to this section as determined by the Secretary of the Business,

Transportation and Housing Agency, or on January 1, 1984, whichever occurs first. Upon making such a determination, the Secretary shall notify the Legislature and the Legislative Counsel.

SEC. 9. Section 1202 of the Financial Code is amended to read:

1202. A commercial bank may borrow money for temporary purposes by discounting or otherwise, and may borrow money secured by real property owned by the bank, to an amount not in excess of its shareholders' equity, but shall not borrow money except as provided in Sections 1204 and 1205 in excess of such amount without the prior written approval of the superintendent.

The amounts of moneys so borrowed by a commercial bank together with the amount of any of its deposits secured by surety bonds shall not at any one time exceed the amount of its shareholders' equity without the prior written approval of the superintendent.

SEC. 10. Section 1335 of the Financial Code is amended to read:

1335. (a) A commercial bank may invest in gold and silver bullion and United States mint certificates of ascertained value, and purchase securities, except corporation shares, for its own account which in the informed opinion of the bank it is prudent to invest the funds of its depositors.

(b) Notwithstanding the provisions of subdivision (a), a commercial bank may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks, except to the extent that any provision of law requires directors' qualifying shares, and if such bank is engaged exclusively in providing services for other banks and their officers, directors, or employees.

SEC. 11. Section 1336 of the Financial Code is amended to read:

1336. Unless otherwise approved by the superintendent, a commercial bank shall not invest an amount exceeding 15 percent of its shareholders' equity in the securities of any one obligor or maker, except:

(a) Obligations of the United States and those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds, consolidated bonds, collateral trust debentures, or other obligations issued by the Federal Financing Bank, the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended; in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended; in consolidated notes, bonds, debentures and other obligations issued by federal land banks, federal intermediate credit banks, and banks for cooperatives under the Farm Credit Act of 1971; in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act; in the bonds of any federal home loan bank established under said act; and in stock, bonds, debentures,

participations, and other obligations of or issued by the Student Loan Marketing Association, the Federal National Mortgage Association and the Government National Mortgage Association.

(c) Obligations of the State of California and those for which the credit of the State of California is pledged for the payment of principal and interest.

(d) Obligations of a local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of such bonds upon all property within its boundaries subject to taxation by the local agency or district.

SEC. 12. Section 1369 of the Financial Code is amended to read:

1369. Any securities or other assets which are authorized by the provisions of Sections 1352 to 1366, inclusive, of this chapter are legal investments for savings banks.

SEC. 13. Section 6705.8 of the Financial Code is amended to read:

6705.8. An association may make secured or unsecured loans for agricultural, business, corporate, commercial, personal, family, or household purposes, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined by the commissioner, provided that:

(a) With respect to loans made directly by an association, the total of agricultural, business, corporate and commercial loans under this section shall not exceed 5 percent of the assets of the association prior to January 1, 1984; 7½ percent of such assets prior to January 1, 1985; and 10 percent of such assets thereafter.

(b) With respect to agricultural, business, corporate or commercial loans originated by a commercial bank, subsidiary of a commercial bank, bank holding company or subsidiaries of a bank holding company, located in this state and either purchased by or participated in by an association, the total of such purchases and participations under this section shall not exceed 10 percent of the assets of the association.

(c) The total of loans and investments under this section does not exceed 20 percent of the assets of the association.

CHAPTER 1197

An act to repeal Chapter 1.5 (commencing with Section 8050) of Division 1 of Title 2 of, and to repeal and add Chapter 8 (commencing with Section 8700) to Division 1 of Title 2 of, the Government Code, relating to California-Mexico affairs.

[Approved by Governor September 20, 1982. Filed with Secretary of State September 21, 1982.]

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

SECTION 1. Chapter 1.5 (commencing with Section 8050) of Division 1 of Title 2 of the Government Code is repealed.

SEC. 2. Chapter 8 (commencing with Section 8700) of Division 1 of Title 2 of the Government Code is repealed.

SEC. 3. Chapter 8 (commencing with Section 8700) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 8. OFFICE OF CALIFORNIA-MEXICO AFFAIRS

8700. The Legislature finds and declares the following:

(a) It is important for the State of California and for the nation that state agencies continue to address important United States-Mexico issues.

(b) The Commission of the Californias was established to further and develop favorable economic, educational, and cultural relations with Baja California, Baja California Sur and other states and territories within the Republic of Mexico.

(c) The California Office of the Southwest Border Regional Conference (formerly commission) was established as part of a joint American border states effort to further and develop favorable relations with the six Mexican border states.

(d) The efforts of both agencies continue to be an essential part of California's interaction with Mexico.

(e) The establishment of an Office of California-Mexico Affairs provides a focal point in state government within which the efforts of both agencies can be consolidated and merged, as well as to serve as a clearinghouse for information and assistance to other state agencies which are involved with Mexico.

8701. The following definitions shall govern the construction of this chapter:

(a) "Office" means the Office of California-Mexico Affairs.

(b) "Conference" means the Southwest Border Regional Conference.

(c) "Commission" means the Commission of the Californias.

8702. There is in state government an Office of California-Mexico Affairs. Within this office the operations of the Commission of the Californias and the California Office of the Southwest Border Regional Conference shall be continued.

The office succeeds to and is vested with all the duties, powers, purposes, and responsibilities vested in the commission or the California office of the conference. All officers and employees of the commission or the California office of the conference who, on the effective date of this section, are serving in the performance of a function vested in the commission or the California office of the conference, shall be transferred to the office. However, it is the intent of the Legislature that, upon the effective date of this section, the staff of the office shall be reduced to four persons in order to limit

office personnel expenditures to the level authorized for the commission and the California office of the conference for the 1982–83 fiscal year.

The office shall have 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 commission or the California office of the conference in the performance of the duties, powers, purposes, responsibilities, and jurisdiction of the commission or the California office of the conference.

8703. The members of the Southwest Border Regional Conference shall be the Governors of the four American border states. The California member of the conference is the Governor of California or his designee.

8704. The Commission of the Californias shall consist of 18 commissioners, seven of whom shall be appointed from members of the general public by the Governor. The Lieutenant Governor shall serve as a commissioner. The Governor shall serve as chairman of the commission. The Lieutenant Governor shall serve as vice chairman and, in the absence of the Governor, shall serve as chairman of the commission, with full responsibility for and authority over all functions of the commission.

Five Senators shall be appointed as commissioners by the Senate Committee on Rules. Five Assemblymen shall be appointed as commissioners by the Speaker of the Assembly. Legislative commissioners shall meet with, and participate in, the work of the commission to the extent that such participation is not incompatible with their duties as Members of the Legislature. For the purposes of this chapter, Members of the Legislature who are commissioners shall constitute a joint legislative committee on the subject matter of this chapter.

Commissioners shall serve at the pleasure of the appointing power for a period of not more than four years, after which they may be reappointed by their appointing power.

8705. The office shall further and develop favorable economic, educational and cultural relations with the State of Baja California, the State of Baja California Sur, other Mexican states bordering on the United States and the remaining states and territories of the Republic of Mexico necessary for the completion of the office's tasks. The office shall cooperate with similar organizations situated within the United States or Mexico, and shall avail itself of the services of the San Diego State University, which is engaged in educational, cultural, and research activities with Mexico. The office shall be responsible for carrying out the ongoing responsibilities of the Commission of the Californias and the Southwest Border Regional Conference and shall report to the Governor and the Legislature annually on its plans and programs.

8706. The Governor shall appoint a director of the office. The director may appoint and employ any personnel which he or she

deems necessary to carry out the functions of the office. The office may incur all necessary expenses to effectuate its purposes and may accept grants from federal and state agencies. The office may also accept funds from private organizations or individuals in order to assist it in the accomplishment of its functions as set forth in this chapter.

8707. Members of the commission shall serve without compensation but shall be reimbursed for actual necessary expenses incurred in the performance of their duties when requested to do so by the director, except for legislative commissioners who shall instead receive reimbursement for their expenses from the Legislature.

8708. Members and employees of the office may travel outside of California and may hold hearings and conduct investigations within and outside of the state whenever necessary to carry out the duties set forth in this chapter. Members and employees may acquire any available information from any governmental agency within the United States or Mexico necessary to the completion of their tasks.

8709. The office shall be responsible for the establishment of committees in those topic areas deemed necessary by the director. Membership on the committees shall be at the pleasure of the appointing power. The appointing authority for the committees within the commission shall be the chairman of the commission. Recommendations of the committees shall not be binding on the Governor or the Legislature but shall only be advisory in nature.

SEC. 4. The Legislature intends that any federal and state funds appropriated to the Commission of the Californias or the California Office of the Southwest Border Regional Conference shall be available for the support of the Office of California-Mexico Affairs for the 1982–83 fiscal year. Financial support for the office for subsequent fiscal years shall be provided in accordance with the normal budgetary process.

CHAPTER 1198

An act to amend Sections 481.020, 481.030, 481.040, 481.080, 481.090, 481.110, 481.170, 482.060, 482.070, 482.080, 482.100, 483.010, 483.020, 484.020, 484.050, 484.070, 484.090, 484.100, 484.110, 484.320, 484.340, 484.350, 484.530, 485.520, 485.610, 486.020, 486.060, 486.080, 486.110, 487.010, 487.020, 489.320, 490.010, 490.020, 492.010, 492.040, 492.070, 493.010, 493.040, 904.1, and 904.2 of, to add Sections 481.055, 481.113, 481.115, 481.117, 481.175, 481.195, 481.203, 481.205, 481.207, 481.223, 481.225, 483.015, 487.025, and 487.030 to, to repeal and add Chapter 8 (commencing with Section 488.010) of, and to add Chapter 11 (commencing with Section 491.110) to, Title 6.5 of Part 2 of, to repeal Sections 481.050, 481.150, 481.160, 481.230, 489.240, and 490.050 of, and to repeal Chapter 11 (commencing with Section 491.010) of Title 6.5

of Part 2 of, the Code of Civil Procedure, to amend Section 9409 of the Commercial Code, and to amend Sections 26744, 26820.4, and 72055 of the Government Code, relating to attachment.

[Approved by Governor September 20, 1982. Filed with Secretary of State September 21, 1982.]

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

SECTION 1. Section 481.020 of the Code of Civil Procedure is amended to read:

481.020. "Account debtor" means "account debtor" as defined in Section 9105 of the Commercial Code.

SEC. 2. Section 481.030 of the Code of Civil Procedure is amended to read:

481.030. "Account receivable" means "account" as defined in Section 9106 of the Commercial Code.

SEC. 3. Section 481.040 of the Code of Civil Procedure is amended to read:

481.040. "Chattel paper" means "chattel paper" as defined in Section 9105 of the Commercial Code.

SEC. 4. Section 481.050 of the Code of Civil Procedure is repealed.

SEC. 5. Section 481.055 is added to the Code of Civil Procedure, to read:

481.055. "Costs" means costs and disbursements, including, but not limited to, statutory fees, charges, commissions, and expenses.

SEC. 6. Section 481.080 of the Code of Civil Procedure is amended to read:

481.080. "Deposit account" means "deposit account" as defined in Section 9105 of the Commercial Code.

SEC. 7. Section 481.090 of the Code of Civil Procedure is amended to read:

481.090. "Document of title" means "document" as defined in Section 9105 of the Commercial Code. A document of title is negotiable if it is negotiable within the meaning of Section 7104 of the Commercial Code.

SEC. 8. Section 481.110 of the Code of Civil Procedure is amended to read:

481.110. "Farm products" means crops or livestock or supplies used or produced in farming operations or products of crops or livestock in their unmanufactured states (such as ginned cotton, wool clip, maple syrup, milk, and eggs), while in the possession of a defendant engaged in raising, fattening, grazing, or other farming operations. If tangible personal property is a farm product, it is neither equipment nor inventory.

SEC. 9. Section 481.113 is added to the Code of Civil Procedure, to read:

481.113. "Financial institution" means a state or national bank,

state or federal savings and loan association or credit union, or like organization, and includes a corporation engaged in a safe deposit business.

SEC. 10. Section 481.115 is added to the Code of Civil Procedure, to read:

481.115. "General intangibles" means "general intangibles," as defined in Section 9106 of the Commercial Code, consisting of rights to payment.

SEC. 11. Section 481.117 is added to the Code of Civil Procedure, to read:

481.117. "Instrument" means "instrument" as defined in Section 9105 of the Commercial Code, but does not include a security.

SEC. 12. Section 481.150 of the Code of Civil Procedure is repealed.

SEC. 13. Section 481.160 of the Code of Civil Procedure is repealed.

SEC. 14. Section 481.170 of the Code of Civil Procedure is amended to read:

481.170. "Person" includes a natural person, a corporation, a partnership or other unincorporated association, and a public entity.

SEC. 15. Section 481.175 is added to the Code of Civil Procedure, to read:

481.175. "Personal property" includes both tangible and intangible personal property.

SEC. 16. Section 481.195 is added to the Code of Civil Procedure, to read:

481.195. "Property" includes real and personal property and any interest therein.

SEC. 17. Section 481.203 is added to the Code of Civil Procedure, to read:

481.203. "Real property" includes any right in real property, including, but not limited to, a leasehold interest in real property.

SEC. 18. Section 481.205 is added to the Code of Civil Procedure, to read:

481.205. "Registered process server" means a person registered as a process server pursuant to Chapter 16 (commencing with Section 22350) of Division 8 of the Business and Professions Code.

SEC. 19. Section 481.207 is added to the Code of Civil Procedure, to read:

481.207. "Secured party" means "secured party" as defined in Section 9105 of the Commercial Code.

SEC. 20. Section 481.223 is added to the Code of Civil Procedure, to read:

481.223. "Security interest" means "security interest" as defined in Section 1201 of the Commercial Code.

SEC. 21. Section 481.225 is added to the Code of Civil Procedure, to read:

481.225. "Tangible personal property" includes chattel paper, documents of title, instruments, securities, and money.

SEC. 22. Section 481.230 of the Code of Civil Procedure is repealed.

SEC. 23. Section 482.060 of the Code of Civil Procedure is amended to read:

482.060. (a) Except as otherwise provided in subdivision (b), the judicial duties to be performed under this title are subordinate judicial duties within the meaning of Section 22 of Article VI of the California Constitution and may be performed by appointed officers such as court commissioners.

(b) The judicial duties to be performed in the determination of the following matters are not subordinate judicial duties:

(1) A contested claim of exemption.

(2) A contested motion for determination of the liability and damages for wrongful attachment.

(3) A contested third-party claim.

(4) A contested proceeding to enforce a third person's liability.

(c) Nothing in subdivision (b) limits the power of a court to appoint a temporary judge pursuant to Section 21 of Article VI of the California Constitution.

SEC. 24. Section 482.070 of the Code of Civil Procedure is amended to read:

482.070. (a) Except as otherwise provided in this title, a writ, notice, order, or other paper required or permitted to be served under this title may be served personally or by mail.

(b) Except as otherwise provided in this section, service of a writ, notice, order, or other paper under this title is governed by Article 1 (commencing with Section 684.010) and Article 2 (commencing with Section 684.110) of Chapter 4 of Division 1 of Title 9, including the provisions of Section 684.120 extending time when service is made by mail.

(c) For the purpose of subdivision (b), in Article 1 (commencing with Section 684.010) and Article 2 (commencing with Section 684.110) of Chapter 4 of Division 1 of Title 9:

(1) References to the "judgment debtor" shall be deemed references to the defendant.

(2) References to the "judgment creditor" shall be deemed references to the plaintiff.

(3) References to a "writ" shall be deemed references to a writ of attachment.

(4) References to a "notice of levy" shall be deemed references to a notice of attachment.

(d) If the defendant has not appeared in the action and a writ, notice, order, or other paper is required to be personally served on the defendant under this title, service shall be made in the same manner as a summons is served under Chapter 4 (commencing with Section 413.10) of Title 5.

(e) Except for service of a subpoena or other process to require the attendance of the defendant or service of a paper to bring the defendant into contempt, if the defendant has an attorney of record

in the action, service shall be made on the attorney rather than on the defendant.

(f) Proof of service under this title is governed by Article 3 (commencing with Section 684.210) of Chapter 4 of Division 1 of Title 9.

SEC. 25. Section 482.080 of the Code of Civil Procedure is amended to read:

482.080. (a) If a writ of attachment is issued, the court may also issue an order directing the defendant to transfer to the levying officer either or both of the following:

(1) Possession of the property to be attached if the property is sought to be attached by taking it into custody.

(2) Possession of documentary evidence of title to property of or a debt owed to the defendant that is sought to be attached. An order pursuant to this paragraph may be served when the property or debt is levied upon or thereafter.

(b) The order shall be personally served on the defendant and shall contain a notice to the defendant that failure to comply with the order may subject the defendant to arrest and punishment for contempt of court.

SEC. 26. Section 482.100 of the Code of Civil Procedure is amended to read:

482.100. (a) The defendant may claim an exemption provided in Section 487.020 for property levied upon pursuant to a writ issued under this title if the right to the exemption is the result of a change in circumstances occurring after (1) the denial of a claim of exemption for the property earlier in the action or (2) the expiration of the time for claiming the exemption earlier in the action.

(b) A claim of exemption under this section shall follow the procedure provided in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 except that, subject to subdivision (a), the defendant may claim the exemption at any time. For this purpose, references in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 to the "judgment debtor" shall be deemed references to the defendant, and references to the "judgment creditor" shall be deemed references to the plaintiff.

(c) The exemption provided by subdivision (b) of Section 487.020 may be claimed at the defendant's option either pursuant to subdivision (b) of this section or by following the procedure provided in this subdivision. The claim shall be made by filing with the court and serving on the plaintiff a notice of motion. Service on the plaintiff shall be made not less than three days prior to the date set for the hearing. The hearing shall be held not more than five days after the filing of the notice of motion unless, for good cause shown, the court orders otherwise. The notice of motion shall state the relief requested and shall be accompanied by an affidavit supporting any factual issues raised and points and authorities supporting any legal issues raised. At the hearing on the motion, the defendant has the burden of showing that the property is exempt pursuant to

subdivision (b) of Section 487.020. Upon this showing and the showing required by subdivision (a), the court shall order the release of the property.

SEC. 27. Section 483.010 of the Code of Civil Procedure is amended to read:

483.010. (a) Except as otherwise provided by statute, an attachment may be issued only in an action on a claim or claims for money, each of which is based upon a contract, express or implied, where the total amount of the claim or claims is a fixed or readily ascertainable amount not less than five hundred dollars ($500) exclusive of costs, interest, and attorney's fees.

(b) An attachment may not be issued on a claim which is secured by any interest in real or personal property arising from agreement, statute, or other rule of law (including any mortgage or deed of trust of realty, any security interest subject to Division 9 (commencing with Section 9101) of the Commercial Code, and any statutory, common law, or equitable lien). However, an attachment may be issued (1) where the claim was originally so secured but, without any act of the plaintiff or the person to whom the security was given, the security has become valueless or has decreased in value to less than the amount then owing on the claim, in which event the amount for which the attachment may issue shall not exceed the lesser of the amount of the decrease or the difference between the value of the security and the amount then owing on the claim, or (2) where the claim was secured by a nonconsensual possessory lien but the lien has been relinquished by the surrender of the possession of the property.

(c) If the action is against a defendant who is a natural person, an attachment may be issued only on a claim which arises out of the conduct by the defendant of a trade, business, or profession. An attachment may not be issued on a claim against a defendant who is a natural person if the claim is based on the sale or lease of property, a license to use property, the furnishing of services, or the loan of money where the property sold or leased, or licensed for use, the services furnished, or the money loaned was used by the defendant primarily for personal, family, or household purposes.

(d) An attachment may be issued pursuant to this section whether or not other forms of relief are demanded.

SEC. 28. Section 483.015 is added to the Code of Civil Procedure, to read:

483.015. (a) Subject to subdivision (b) and to Section 483.020, the amount to be secured by an attachment is the sum of the following:

(1) The amount of the defendant's indebtedness claimed by the plaintiff.

(2) Any additional amount included by the court under Section 482.110.

(b) The amount described in subdivision (a) shall be reduced by all claims which would diminish the amount of the plaintiff's recovery.

SEC. 29. Section 483.020 of the Code of Civil Procedure is amended to read:

483.020. (a) Subject to subdivisions (d) and (e), the amount to be secured by the attachment in an unlawful detainer proceeding is the sum of the following:

(1) The amount of the rent due and unpaid as of the date of filing the complaint in the unlawful detainer proceeding.

(2) Any additional amount included by the court under subdivision (c).

(3) Any additional amount included by the court under Section 482.110.

(b) In an unlawful detainer proceeding, the plaintiff's application for a right to attach order and a writ of attachment pursuant to this title may include (in addition to the rent due and unpaid as of the date of the filing of the complaint and any additional estimated amount authorized by Section 482.110) an amount equal to the rent for the period from the date the complaint is filed until the estimated date of judgment or such earlier estimated date as possession has been or is likely to be delivered to the plaintiff, such amount to be computed at the rate provided in the lease.

(c) The amount to be secured by the attachment in the unlawful detainer proceeding may, in the discretion of the court, include an additional amount equal to the amount of rent for the period from the date the complaint is filed until the estimated date of judgment or such earlier estimated date as possession has been or is likely to be delivered to the plaintiff, such amount to be computed at the rate provided in the lease.

(d) Notwithstanding subdivision (b) of Section 483.010, an attachment may be issued in an unlawful detainer proceeding where the plaintiff has received a payment or holds a deposit to secure the payment of rent or the performance of other obligations under the lease. If the payment or deposit secures only the payment of rent, the amount of the payment or deposit shall be subtracted in determining the amount to be secured by the attachment. If the payment or deposit secures the payment of rent and the performance of other obligations under the lease or secures only the performance of other obligations under the lease, the amount of the payment or deposit shall not be subtracted in determining the amount to be secured by the attachment.

(e) The amount to be secured by the attachment as otherwise determined under this section shall be reduced by the amounts described in subdivision (b) of Section 483.015.

SEC. 30. Section 484.020 of the Code of Civil Procedure is amended to read:

484.020. The application shall be executed under oath and shall include all of the following:

(a) A statement showing that the attachment is sought to secure the recovery on a claim upon which an attachment may be issued.

(b) A statement of the amount to be secured by the attachment.

(c) A statement that the attachment is not sought for a purpose other than the recovery on the claim upon which the attachment is based.

(d) A statement that the applicant has no information or belief that the claim is discharged in a proceeding under Title 11 of the United States Code (Bankruptcy) or that the prosecution of the action is stayed in a proceeding under Title 11 of the United States Code (Bankruptcy).

(e) A description of the property to be attached under the writ of attachment and a statement that the plaintiff is informed and believes that such property is subject to attachment. Where the defendant is a corporation, a reference to "all corporate property which is subject to attachment pursuant to subdivision (a) of Code of Civil Procedure Section 487.010" satisfies the requirements of this subdivision. Where the defendant is a partnership or other unincorporated association, a reference to "all property of the partnership or other unincorporated association which is subject to attachment pursuant to subdivision (b) of Code of Civil Procedure Section 487.010" satisfies the requirements of this subdivision. Where the defendant is a natural person, the description of the property shall be reasonably adequate to permit the defendant to identify the specific property sought to be attached.

SEC. 31. Section 484.050 of the Code of Civil Procedure is amended to read:

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

(a) A hearing will be held at a place and at a time, to be specified in the notice, on plaintiff's application for a right to attach order and a writ of attachment.

(b) The order will be issued if the court finds that the plaintiff's claim is probably valid and the other requirements for issuing the order are established. The hearing is not for the purpose of determining whether the claim is actually valid. The determination of the actual validity of the claim will be made in subsequent proceedings in the action and will not be affected by the decisions at the hearing on the application for the order.

(c) The amount to be secured by the attachment is the amount of the defendant's indebtedness claimed by the plaintiff over and above all claims which would reduce the amount of the plaintiff's recovery.

(d) If the right to attach order is issued, a writ of attachment will be issued to attach the property described in the plaintiff's application unless the court determines that such property is exempt from attachment or that its value clearly exceeds the amount necessary to satisfy the amount to be secured by the attachment. However, additional writs of attachment may be issued to attach other nonexempt property of the defendant on the basis of the right to attach order.

(e) If the defendant desires to oppose the issuance of the order,

the defendant shall file with the court and serve on the plaintiff a notice of opposition and supporting affidavit as required by Section 484.060 not later than five days prior to the date set for hearing.

(f) If the defendant claims that the personal property described in the application, or a portion thereof, is exempt from attachment, the defendant shall include that claim in the notice of opposition filed and served pursuant to Section 484.060 or file and serve a separate claim of exemption with respect to the property as provided in Section 484.070. If the defendant does not do so, the claim of exemption will be barred in the absence of a showing of a change in circumstances occurring after the expiration of the time for claiming exemptions.

(g) The defendant may obtain a determination at the hearing whether real or personal property not described in the application or real property described in the application is exempt from attachment by including the claim in the notice of opposition filed and served pursuant to Section 484.060 or by filing and serving a separate claim of exemption with respect to the property as provided in Section 484.070, but the failure to so claim that the property is exempt from attachment will not preclude the defendant from making a claim of exemption with respect to the property at a later time.

(h) Either the defendant or the defendant's attorney or both of them may be present at the hearing.

(i) The notice shall contain the following statement: "You may seek the advice of an attorney as to any matter connected with the plaintiff's application. The attorney should be consulted promptly so that the attorney may assist you before the time set for hearing."

SEC. 32. Section 484.070 of the Code of Civil Procedure is amended to read:

484.070. (a) If the defendant claims that the personal property described in the plaintiff's application, or a portion of such property, is exempt from attachment, the defendant shall claim the exemption as provided in this section. If the defendant fails to make the claim or makes the claim but fails to prove that the personal property is exempt, the defendant may not later claim the exemption except as provided in Section 482.100.

(b) If the defendant desires to claim at the hearing that real or personal property not described in the plaintiff's application or real property described in the plaintiff's application is exempt from attachment, in whole or in part, the defendant shall claim the exemption as provided in this section. Failure to make the claim does not preclude the defendant from later claiming the exemption. If the claim is made as provided in this section but the defendant fails to prove that the property is exempt from attachment, the defendant may not later claim that the property, or a portion thereof, is exempt except as provided in Section 482.100.

(c) The claim of exemption shall:

(1) Describe the property claimed to be exempt.

(2) Specify the statute section supporting the claim.

(d) The claim of exemption shall be accompanied by an affidavit supporting any factual issues raised by the claim and points and authorities supporting any legal issues raised.

(e) The claim of exemption, together with any supporting affidavit and points and authorities, shall be filed and served on the plaintiff not less than five days before the date set for the hearing.

(f) If the plaintiff desires to oppose the claim of exemption, the plaintiff shall file and serve on the defendant, not less than two days before the date set for the hearing, a notice of opposition to the claim of exemption, accompanied by an affidavit supporting any factual issues raised and points and authorities supporting any legal issues raised. If the plaintiff does not file and serve a notice of opposition as provided in this subdivision, no writ of attachment shall be issued as to the property claimed to be exempt. If all of the property described in the plaintiff's application is claimed to be exempt and the plaintiff does not file and serve a notice of opposition as provided in this subdivision, no hearing shall be held and no right to attach order or writ of attachment shall be issued and any temporary protective order issued pursuant to Chapter 6 (commencing with Section 486.010) immediately expires.

(g) If the plaintiff files and serves a notice of opposition to the claim as provided in this section, the defendant has the burden of proving that the property is exempt from attachment.

SEC. 33. Section 484.090 of the Code of Civil Procedure is amended to read:

484.090. (a) At the hearing, the court shall consider the showing made by the parties appearing and shall issue a right to attach order, which shall state the amount to be secured by the attachment determined by the court in accordance with Section 483.015 or 483.020, if it finds all of the following:

(1) The claim upon which the attachment is based is one upon which an attachment may be issued.

(2) The plaintiff has established the probable validity of the claim upon which the attachment is based.

(3) The attachment is not sought for a purpose other than the recovery on the claim upon which the attachment is based.

(b) If, in addition to the findings required by subdivision (a), the court finds that the defendant has failed to prove that all the property sought to be attached is exempt from attachment, it shall order a writ of attachment to be issued upon the filing of an undertaking as provided by Sections 489.210 and 489.220.

(c) If the court determines that property of the defendant is exempt from attachment, in whole or in part, the right to attach order shall describe the exempt property and prohibit attachment of the property.

(d) The court's determinations shall be made upon the basis of the pleadings and other papers in the record; but, upon good cause shown, the court may receive and consider at the hearing additional

evidence, oral or documentary, and additional points and authorities, or it may continue the hearing for the production of the additional evidence or points and authorities.

SEC. 34. Section 484.100 of the Code of Civil Procedure is amended to read:

484.100. The court's determinations under this chapter shall have no effect on the determination of any issues in the action other than issues relevant to proceedings under this chapter nor shall they affect the rights of the plaintiff or defendant in any other action arising out of the same claim of the plaintiff or defendant. The court's determinations under this chapter shall not be given in evidence nor referred to at the trial of any such action.

SEC. 35. Section 484.110 of the Code of Civil Procedure is amended to read:

484.110. (a) Neither the failure of the defendant to oppose the issuance of a right to attach order under this chapter nor the defendant's failure to rebut any evidence produced by the plaintiff in connection with proceedings under this chapter shall constitute a waiver of any defense to the plaintiff's claim in the action or any other action or have any effect on the right of the defendant to produce or exclude evidence at the trial of any such action.

(b) Neither the failure of the plaintiff to oppose the issuance of an order reducing the amount to be secured by the attachment under this chapter nor the plaintiff's failure to rebut any evidence produced by the defendant in connection with proceedings under this chapter shall constitute a waiver of any defense to the defendant's claim in the action or any other action or have any effect on the right of the plaintiff to produce or exclude evidence at the trial of any such action.

SEC. 36. Section 484.320 of the Code of Civil Procedure is amended to read:

484.320. The application shall be executed under oath and shall include all of the following:

(a) A statement that the plaintiff has been issued a right to attach order under Article 1 (commencing with Section 484.010) or that the court has found pursuant to Section 485.240 that the plaintiff is entitled to a right to attach order.

(b) A statement of the amount to be secured by the attachment.

(c) A description of the property to be attached under the writ of attachment and a statement that the plaintiff is informed and believes that the property is subject to attachment. The description shall satisfy the requirements of Section 484.020.

(d) A statement that the applicant has no information or belief that the claim is discharged in a proceeding under Title 11 of the United States Code (Bankruptcy) or that the prosecution of the action is stayed in a proceeding under Title 11 of the United States Code (Bankruptcy).

SEC. 37. Section 484.340 of the Code of Civil Procedure is amended to read:

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

(a) The plaintiff has applied for a writ of attachment to attach the property described in the application.

(b) A hearing will be held at a place and at a time, to be specified in the notice, to determine whether the plaintiff is entitled to the writ.

(c) A writ of attachment will be issued to attach the property described in the plaintiff's application unless the court determines that the property is exempt from attachment or that its value clearly exceeds the amount necessary to satisfy the amount to be secured by the attachment.

(d) If the defendant claims that the property described in the application, or a portion thereof, is exempt from attachment, the defendant may file with the court and serve on the plaintiff a claim of exemption with respect to the property as provided in Section 484.350 not later than five days prior to the date set for hearing. If the defendant fails to make such a claim with respect to personal property, the defendant may not later claim the exemption in the absence of a showing of a change in circumstances occurring after the expiration of the time for claiming exemptions.

(e) Either the defendant or the defendant's attorney or both of them may be present at the hearing.

(f) The notice shall contain the following statement: "You may seek the advice of an attorney as to any matter connected with the plaintiff's application. The attorney should be consulted promptly so that the attorney may assist you before the time set for hearing."

SEC. 38. Section 484.350 of the Code of Civil Procedure is amended to read:

484.350. (a) If the defendant claims that the property described in the plaintiff's application, or a portion of such property, is exempt from attachment, the defendant may claim the exemption as provided in this section. If the defendant fails to make a claim with respect to personal property, or makes a claim with respect to real or personal property but fails to prove that the property is exempt, the defendant may not later claim the exemption except as provided in Section 482.100.

(b) The claim of exemption shall:

(1) Describe the property claimed to be exempt.

(2) Specify the statute section supporting the claim.

(c) The claim of exemption shall be accompanied by an affidavit supporting any factual issues raised by the claim and points and authorities supporting any legal issues raised.

(d) The claim of exemption, together with any supporting affidavit and points and authorities, shall be filed and served on the plaintiff not less than five days before the date set for the hearing.

SEC. 39. Section 484.530 of the Code of Civil Procedure is amended to read:

484.530. (a) The defendant may claim an exemption as to real or

personal property levied upon pursuant to a writ issued under this article by following the procedure set forth in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9, except that the defendant shall claim the exemption as to personal property not later than 30 days after the levying officer serves the defendant with the notice of attachment describing such property. For this purpose, references in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 to the "judgment debtor" shall be deemed references to the defendant, and references to the "judgment creditor" shall be deemed references to the plaintiff.

(b) The defendant may claim the exemption provided by subdivision (b) of Section 487.020 within the time provided by subdivision (a) of this section either (1) by following the procedure set forth in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 or (2) by following the procedure set forth in subdivision (c) of Section 482.100 except that the requirement of showing changed circumstances under subdivision (a) of Section 482.100 does not apply.

(c) Notwithstanding subdivisions (a) and (b), a claim of exemption shall be denied if the claim has been denied earlier in the action and there is no change in circumstances affecting the claim.

SEC. 41. Section 485.520 of the Code of Civil Procedure is amended to read:

485.520. The application shall be executed under oath and shall include all of the following:

(a) A statement that the plaintiff has been issued a right to attach order and writ of attachment pursuant to Article 2 (commencing with Section 485.210) in the action.

(b) A statement of the amount to be secured by the attachment under the right to attach order.

(c) A description of the property to be attached under the writ of attachment and a statement that the plaintiff is informed and believes that the property is not exempt from attachment. The description shall satisfy the requirements of Section 484.020.

(d) A statement showing that the requirement of Section 485.010 has been satisfied.

SEC. 42. Section 485.610 of the Code of Civil Procedure is amended to read:

485.610. (a) The defendant may claim an exemption as to real or personal property levied upon pursuant to a writ of attachment issued under this chapter by following the procedure set forth in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9, except that the defendant shall claim the exemption as to personal property not later than 30 days after the levying officer serves the defendant with the notice of attachment describing such property. For this purpose, references in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 to the "judgment debtor" shall be deemed references to the

defendant, and references to the "judgment creditor" shall be deemed references to the plaintiff.

(b) The defendant may claim the exemption provided by subdivision (b) of Section 487.020 within the time provided by subdivision (a) of this section either (1) by following the procedure set forth in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 or (2) by following the procedure set forth in subdivision (c) of Section 482.100 except that the requirement of showing changed circumstances under subdivision (a) of Section 482.100 does not apply.

SEC. 42.5. Section 486.020 of the Code of Civil Procedure is amended to read:

486.020. The court shall examine the application, supporting affidavit, and other papers on record and shall issue a temporary protective order, which shall state the amount sought to be secured by the attachment under the application for the right to attach order, upon the filing of an undertaking as provided by Sections 489.210 and 489.220, if it finds all of the following:

(a) The claim upon which the application for attachment is based is one upon which an attachment may be issued.

(b) The plaintiff has established the probable validity of the claim upon which the application for the attachment is based.

(c) The order is not sought for a purpose other than the recovery upon the claim upon which the application for the attachment is based.

(d) The plaintiff will suffer great or irreparable injury (within the meaning of Section 485.010) if the temporary protective order is not issued.

SEC. 43. Section 486.060 of the Code of Civil Procedure is amended to read:

486.060. (a) Notwithstanding any terms of the temporary protective order, the defendant may issue any number of checks against any of the defendant's accounts in a financial institution in this state to the extent permitted by this section.

(b) The defendant may issue any number of checks in any amount for the following purposes:

(1) Payment of any payroll expense (including fringe benefits and taxes and premiums for workers' compensation and unemployment insurance) falling due in the ordinary course of business prior to the levy of a writ of attachment.

(2) Payment for goods thereafter delivered to the defendant C.O.D. for use in the defendant's trade, business, or profession.

(3) Payment of taxes if payment is necessary to avoid penalties which will accrue if there is any further delay in payment.

(4) Payment of reasonable legal fees and reasonable costs and expenses required for the representation of the defendant in the action.

(c) In addition to the checks permitted to be issued by subdivision (b), the defendant may issue any number of checks for any purpose

so long as the total amount of the checks does not exceed the greater of the following:

(1) The amount by which the total amount on deposit exceeds the sum of the amount sought to be secured by the attachment and the amounts permitted to be paid pursuant to subdivision (b).

(2) One thousand dollars ($1,000).

SEC. 44. Section 486.080 of the Code of Civil Procedure is amended to read:

486.080. The temporary protective order shall be personally served on the defendant together with the documents referred to in Section 484.040.

SEC. 45. Section 486.110 of the Code of Civil Procedure is amended to read:

486.110. (a) The service upon the defendant of a temporary protective order pursuant to Section 486.080 creates a lien upon any property, or the proceeds thereof, which is described in the order, is owned by the defendant at the time of such service, and is subject to attachment pursuant to this title. The lien continues on property subject to the lien, notwithstanding the transfer or encumbrance of the property subject to the lien, unless the person receiving the property is a person listed in Section 697.740.

(b) The lien terminates upon the date of expiration of the temporary protective order except with respect to property levied upon while the temporary protective order is in effect under a writ of attachment issued upon application of the plaintiff.

SEC. 46. Section 487.010 of the Code of Civil Procedure is amended to read:

487.010. The following property of the defendant is subject to attachment:

(a) Where the defendant is a corporation, all corporate property for which a method of levy is provided by Article 2 (commencing with Section 488.300) of Chapter 8.

(b) Where the defendant is a partnership or other unincorporated association, all partnership or association property for which a method of levy is provided by Article 2 (commencing with Section 488.300) of Chapter 8.

(c) Where the defendant is a natural person, all of the following property:

(1) Interests in real property except leasehold estates with unexpired terms of less than one year.

(2) Accounts receivable, chattel paper, and general intangibles arising out of the conduct by the defendant of a trade, business, or profession, except any such individual claim with a principal balance of less than one hundred fifty dollars ($150).

(3) Equipment.

(4) Farm products.

(5) Inventory.

(6) Final money judgments arising out of the conduct by the defendant of a trade, business, or profession.

(7) Money on the premises where a trade, business, or profession is conducted by the defendant and, except for the first one thousand dollars ($1,000), money located elsewhere than on such premises and deposit accounts, but, if the defendant has more than one deposit account or has at least one deposit account and money located elsewhere than on the premises where a trade, business, or profession is conducted by the defendant, the court, upon application of the plaintiff, may order that the writ of attachment be levied so that an aggregate amount of one thousand dollars ($1,000) in the form of such money and in such accounts remains free of levy.

(8) Negotiable documents of title.

(9) Instruments.

(10) Securities.

(11) Minerals or the like (including oil and gas) to be extracted.

(d) In the case of a defendant described in subdivision (c), community property of a type described in subdivision (c) is subject to attachment if the community property would be subject to enforcement of the judgment obtained in the action in which the attachment is sought. Unless the provision or context otherwise requires, if community property that is subject to attachment is sought to be attached:

(1) Any provision of this title that applies to the property of the defendant or to obligations owed to the defendant also applies to the community property interest of the spouse of the defendant and to obligations owed to either spouse that are community property.

(2) Any provision of this title that applies to property in the possession or under the control of the defendant also applies to community property in the possession or under the control of the spouse of the defendant.

SEC. 47. Section 487.020 of the Code of Civil Procedure is amended to read:

487.020. The following property is exempt from attachment:

(a) All property exempt from enforcement of a money judgment.

(b) Property which is necessary for the support of a defendant who is a natural person or the family of such defendant supported in whole or in part by the defendant.

(c) "Earnings" as defined by Section 706.011.

(d) All property not subject to attachment pursuant to Section 487.010.

SEC. 47.5. Section 487.025 is added to the Code of Civil Procedure, to read:

487.025. (a) The recording of a homestead declaration (as defined in Section 704.910) does not limit or affect the right of a plaintiff to attach the declared homestead described in the homestead declaration, whether the homestead declaration is recorded before or after the declared homestead is attached.

(b) An attachment lien attaches to a homestead (as defined in Section 704.710) in the amount of any surplus over the total of the following:

(1) All liens and encumbrances on the homestead at the time the attachment lien is created.

(2) The homestead exemption set forth in Section 704.730.

(c) Nothing in subdivision (a) or (b) limits the right of the defendant to an exemption under subdivision (b) of Section 487.020.

(d) Notwithstanding subdivision (b), a homestead (as defined in Section 704.710) is exempt from sale to the extent provided in Section 704.800 when it is sought to be sold to enforce the judgment obtained in the action in which the attachment was obtained.

SEC. 48. Section 487.030 is added to the Code of Civil Procedure, to read:

487.030. (a) At any time prior to the entry of judgment in the action, the defendant may claim any exemption provided by subdivision (a) of Section 487.020 with respect to real property by following the procedure set forth in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9. A claim of exemption under this subdivision shall be denied if the claim has been denied earlier in the action.

(b) At any time prior to the entry of judgment in the action, the defendant may claim the exemption provided by subdivision (b) of Section 487.020 with respect to real property either (1) by following the procedure set forth in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 or (2) by following the procedure set forth in subdivision (c) of Section 482.100 except that the requirement of showing changed circumstances under subdivision (a) of Section 482.100 does not apply. A claim of exemption under this subdivision shall be denied if the claim has been denied earlier in the action and there is no change in circumstances affecting the claim.

(c) For the purposes of this section, references in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 to the "judgment debtor" shall be deemed references to the defendant, and references to the "judgment creditor" shall be deemed references to the plaintiff.

(d) Nothing in this section limits the right to claim after the entry of judgment a homestead exemption for real property under Article 4 (commencing with Section 704.710) of Chapter 4 of Division 2 of Title 9 unless prior to entry of judgment the defendant has claimed the exemption provided by subdivision (a) of Section 487.020 with respect to such property and the claim has been denied.

SEC. 49. Chapter 8 (commencing with Section 488.010) of Title 6.5 of Part 2 of the Code of Civil Procedure is repealed.

SEC. 50. Chapter 8 (commencing with Section 488.010) is added to Title 6.5 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 8. LEVY PROCEDURES; LIEN OF ATTACHMENT; MANAGEMENT AND DISPOSITION OF ATTACHED PROPERTY

Article 1. General Provisions

488.010. The writ of attachment shall include the following information:

(a) The date of issuance of the writ.

(b) The title of the court that issued the writ and the cause and number of the action.

(c) The name and address of the plaintiff and the name and last known address of the defendant.

(d) The amount to be secured by the attachment.

(e) A description of the property to be levied upon to satisfy the attachment.

488.020. (a) A writ of attachment shall be directed to a levying officer in the county in which property of the defendant described in the writ may be located and to any registered process server.

(b) Upon the receipt of written instructions from the plaintiff's attorney of record or, if the plaintiff has no attorney of record, from the plaintiff, the levying officer to whom the writ is directed and delivered shall levy the writ without delay in the manner provided in this chapter on the property described in the writ or so much thereof as is clearly sufficient to satisfy the amount to be secured by the attachment. The levying officer is not liable for a determination made in good faith under this subdivision.

(c) If a copy of the summons and complaint has not previously been served on the defendant, the instructions to the levying officer shall instruct the levying officer to make the service at the same time the levying officer serves the defendant with a copy of the writ of attachment.

488.030. (a) The plaintiff shall give the levying officer instructions in writing. The instructions shall be signed by the plaintiff's attorney of record or, if the plaintiff does not have an attorney of record, by the plaintiff. The instructions shall contain the information needed or requested by the levying officer to comply with the provisions of this title, including but not limited to:

(1) An adequate description of any property to be levied upon.

(2) A statement whether the property is a dwelling.

(3) If the property is a dwelling, whether it is real or personal property.

(b) Subject to subdivision (c), the levying officer shall act in accordance with the written instructions to the extent the actions are taken in conformance with the provisions of this title.

(c) Except to the extent the levying officer has actual knowledge that the information is incorrect, the levying officer may rely on any information contained in the written instructions.

488.040. (a) If the levying officer is required by any provision of this title to serve any writ, order, notice, or other paper on any person, the plaintiff shall include in the instructions to the levying officer the correct name and address of the person. The plaintiff shall use reasonable diligence to ascertain the correct name and address of the person.

(b) Unless the levying officer has actual knowledge that the name

or address included in the instructions is incorrect, the levying officer shall rely on the instructions in serving the writ, order, notice, or other paper on the person.

488.050. (a) Except as otherwise provided by law:

(1) As a prerequisite to the performance by the levying officer of a duty under this title, the plaintiff shall deposit a sum of money with the levying officer sufficient to pay the costs of performing the duty.

(2) As a prerequisite to the taking of property into custody by the levying officer under this chapter, whether by keeper or otherwise, the plaintiff shall deposit with the levying officer a sum of money sufficient to pay the costs of taking the property and keeping it safely for a period not to exceed 15 days. If continuation of the custody of the property is required, the levying officer shall, from time to time, demand orally or in writing that the plaintiff deposit additional amounts to cover estimated costs for periods not to exceed 30 days each. A written demand may be mailed or delivered to the plaintiff. The plaintiff has not less than three business days after receipt of the demand within which to comply with the demand. If the amount demanded is not paid within the time specified in the oral or written demand, the levying officer shall release the property.

(b) The levying officer is not liable for failure to take or hold property unless the plaintiff has complied with the provisions of this section.

488.060. The notice of attachment shall inform the person notified of all of the following:

(a) The capacity in which the person is notified.

(b) The specific property which is sought to be attached.

(c) The person's rights under the attachment, including the right to make a third-party claim pursuant to Division 4 (commencing with Section 720.010) of Title 9.

(d) The person's duties under the attachment.

488.070. If a writ of attachment has been issued and personal property sought to be attached under the writ is located in a private place of the defendant:

(a) The levying officer shall comply with the provisions of Section 699.030.

(b) The plaintiff may obtain the relief provided under Section 699.030 in the manner and subject to the requirements of that section.

488.080. (a) A registered process server may levy under a writ of attachment on the following types of property:

(1) Real property, pursuant to Section 488.315.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 488.325.

(3) Personal property in the custody of a levying officer, pursuant to Section 488.355.

(4) Equipment of a going business, pursuant to Section 488.375.

(5) Motor vehicles, vessels, mobilehomes, or commercial coaches used as equipment of a going business, pursuant to Section 488.385.

(6) Farm products or inventory of a going business, pursuant to Section 488.405.

(7) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(8) Deposit accounts, pursuant to Section 488.455 or 488.465.

(9) Property in a safe deposit box, pursuant to Section 488.460 or 488.465.

(10) Accounts receivable or general intangibles, pursuant to Section 488.470.

(11) Final money judgments, pursuant to Section 488.480.

(12) Interest of a defendant in personal property in the estate of a decedent, pursuant to Section 488.485.

(b) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do all of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 2 (commencing with Section 488.300).

(2) Deliver any undertaking required by Section 488.465.

(3) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section 488.610.

(c) Within five days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of attachment.

(2) An affidavit of the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of attachment on other persons as required by Article 2 (commencing with Section 488.300).

(4) Instructions in writing, as required by the provisions of Section 488.030.

(d) Upon receipt of the fee provided by Section 26721 of the Government Code, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court. The levying officer is not liable for actions taken in conformance with the provisions of this title in reliance on information provided to the levying officer under subdivision (c) except to the extent that the levying officer has actual knowledge that the information is incorrect. Nothing in this subdivision limits any liability the plaintiff or registered process server may have if the levying officer acts on the basis of incorrect information provided under subdivision (c).

(e) The fee for services of a registered process server under this section may, in the court's discretion, be allowed as a recoverable cost. If allowed, the amount of the fee to be allowed is governed by Section 1032b.

488.090. Except as otherwise provided by statute, where the

method of levy upon property requires that property be taken into custody or where the levying officer is otherwise directed to take property into custody, the levying officer may do so by any of the following methods:

(a) Removing the property to a place of safekeeping.

(b) Installing a keeper.

(c) Otherwise obtaining possession or control of the property.

488.100. The levying officer has a special lien, dependent upon possession, on personal property levied upon in the amount of the levying officer's costs for which an advance has not been made.

488.110. A third person shall claim an interest in property attached in the manner provided for third-party claims under Division 4 (commencing with Section 720.010) of Title 9.

488.120. In any case where property has been levied upon and, pursuant to a levy, a copy of the writ of attachment and a notice of attachment are required by statute to be posted or to be served on or mailed to the defendant or other person, failure to post, serve, or mail the copy of the writ and the notice does not affect the attachment lien created by the levy.

488.130. (a) The levying officer to whom the writ of attachment is delivered shall return the writ to the court from which the writ issued, together with a report of the levying officer's actions. The return shall be made promptly in accordance with the plaintiff's instructions given to the levying officer but in no event later than 60 days after the levying officer receives the writ.

(b) The levying officer shall make a full inventory of property attached and return the inventory with the writ.

488.140. (a) The levying officer is not liable for actions taken in conformance with the provisions of this title, including actions taken in conformance with the provisions of this title in reliance on information contained in the written instructions of the plaintiff except to the extent the levying officer has actual knowledge that the information is incorrect. Nothing in this subdivision limits any liability the plaintiff may have if the levying officer acts on the basis of incorrect information given in the written instructions.

(b) Unless the levying officer is negligent in the care or handling of the property, the levying officer is not liable to either the plaintiff or the defendant for loss by fire, theft, injury, or damage of any kind to personal property while (1) in the possession of the levying officer either in a warehouse or other storage place or in the custody of a keeper or (2) in transit to or from a warehouse or other storage place.

Article 2. Methods of Levy

488.300. If the method of levy under a writ of execution is incorporated by this article, for the purposes of this article references in Article 4 (commencing with Section 700.010) of Chapter 3 of Division 2 of Title 9 to:

(a) "Judgment creditor" shall be deemed references to the

plaintiff.

(b) "Judgment debtor" shall be deemed references to the defendant.

(c) "Notice of levy" shall be deemed references to a notice of attachment.

(d) "Writ" shall be deemed references to a writ of attachment.

488.305. At the time of levy pursuant to this article or promptly thereafter, the levying officer shall serve a copy of the writ of attachment and a notice of attachment on the defendant.

488.315. To attach real property, the levying officer shall comply with Section 700.015 and the recorder shall index the copy of the writ of attachment and a notice of attachment as provided in that section.

488.325. To attach (1) growing crops, (2) timber to be cut, or (3) minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, the levying officer shall comply with Section 700.020 and the recorder shall index the copy of the writ of attachment and a notice of attachment as provided in that section.

488.335. Unless another method of attachment is provided by this article, to attach tangible personal property in the possession or under the control of the defendant, the levying officer shall take the property into custody.

488.345. Unless another method of attachment is provided by this article, to attach tangible personal property in the possession or under the control of a third person, the levying officer shall comply with Section 700.040.

488.355. (a) To attach personal property in the custody of a levying officer, the plaintiff or levying officer shall comply with subdivision (a) of Section 700.050.

(b) The levying officer having custody of the property shall comply with the writs in the order they are received and is not subject to the provisions of Article 4 (commencing with Section 488.600).

488.365. To attach goods in the possession of a bailee (as defined in Section 7102 of the Commercial Code) other than one who has issued a negotiable document of title therefor, the levying officer shall comply with Section 700.060.

488.375. (a) Except as provided by Section 488.385, to attach equipment of a going business in the possession or under the control of the defendant, the levying officer shall file with the office of the Secretary of State a notice of attachment, in the form prescribed by the Secretary of State, which shall contain all of the following:

(1) The name and mailing address of the plaintiff.

(2) The name and last known mailing address of the defendant.

(3) The title of the court where the action is pending and the cause and number of the action.

(4) A description of the specific property attached.

(5) A statement that the plaintiff has acquired an attachment lien on the specified property of the defendant.

(b) Upon presentation of a notice of attachment under this section for filing, and tender of the filing fee to the office of the Secretary of State, the notice of attachment shall be filed, marked, and indexed in the same manner as a financing statement. The fee for filing in the office of the Secretary of State is the same as the fee for filing a financing statement in the standard form.

(c) Upon the request of any person, the Secretary of State shall issue a certificate showing whether there is on file in that office on the date and hour stated therein any notice of attachment filed against the equipment of a particular person named in the request. If a notice of attachment is on file, the certificate shall state the date and hour of filing of each such notice and any notice affecting any such notice of attachment and the name and address of the plaintiff. The fee for the certificate issued pursuant to this subdivision is the same as the fee for a certificate issued pursuant to Section 9407 of the Commercial Code. Upon request, the Secretary of State shall furnish a copy of any notice of attachment or notice affecting a notice of attachment for the fee for a copy prescribed by subdivision (2) of Section 9407 of the Commercial Code.

(d) The fee for filing, indexing, and furnishing filing data for a notice of extension of attachment is the same as the fee for a continuation statement under Section 9403 of the Commercial Code. The fee for filing, indexing, and furnishing filing data for a notice of release of attachment is the same as the fee for a statement of release under Section 9405 of the Commercial Code.

488.385. (a) To attach a vehicle or vessel for which a certificate of ownership has been issued by the Department of Motor Vehicles, or a mobilehome or commercial coach for which a certificate of title has been issued by the Department of Housing and Community Development, which is equipment of a going business in the possession or under the control of the defendant, the levying officer shall file with the appropriate department a notice of attachment, in the form prescribed by the appropriate department, which shall contain all of the following:

(1) The name and mailing address of the plaintiff.

(2) The name and last known mailing address of the defendant.

(3) The title of the court where the action is pending and the cause and number of the action.

(4) A description of the specific property attached.

(5) A statement that the plaintiff has acquired an attachment lien on the specific property of the defendant.

(b) Upon presentation of a notice of attachment, notice of extension, or notice of release under this section for filing and tender of the filing fee to the appropriate department, the notice shall be filed and indexed. The fee for filing and indexing the notice is three dollars ($3).

(c) Upon the request of any person, the department shall issue its certificate showing whether there is on file in that department on the date and hour stated therein any notice of attachment filed against

the property of a particular person named in the request. If a notice of attachment is on file, the certificate shall state the date and hour of filing of each such notice of attachment and any notice affecting any such notice of attachment and the name and address of the plaintiff. The fee for the certificate issued pursuant to this subdivision is three dollars ($3). Upon request, the department shall furnish a copy of any notice of attachment or notice affecting a notice of attachment for a fee of one dollar ($1) per page.

488.395. Except as provided by Sections 488.325 and 488.405:

(a) To attach farm products or inventory of a going business in the possession or under the control of the defendant, the levying officer shall place a keeper in charge of the property for the period prescribed by subdivisions (b) and (c). During the keeper period, the business may continue to operate in the ordinary course of business provided that all sales are final and are for cash or its equivalent. For the purpose of this subdivision, a check is the equivalent of cash. The levying officer is not liable for accepting payment in the form of a cash equivalent. The keeper shall take custody of the proceeds from all sales unless otherwise directed by the plaintiff.

(b) Subject to subdivision (c), the period during which the business may continue to operate under the keeper is:

(1) Ten days, if the defendant is a natural person and the writ of attachment has been issued ex parte pursuant to Article 3 (commencing with Section 484.510) of Chapter 4 or pursuant to Chapter 5 (commencing with Section 485.010).

(2) Two days, in cases not described in paragraph (1).

(c) Unless some other disposition is agreed upon by the plaintiff and the defendant, the levying officer shall take the farm products or inventory into exclusive custody at the earlier of the following times:

(1) At any time the defendant objects to placement of a keeper in charge of the business.

(2) At the conclusion of the applicable period prescribed by subdivision (b).

(d) A defendant described in paragraph (1) of subdivision (b) may claim an exemption pursuant to subdivision (b) of Section 487.020 by following the procedure set forth in subdivision (c) of Section 482.100 except that the requirement of showing changed circumstances under subdivision (a) of Section 482.100 does not apply. Upon a showing that the property is exempt pursuant to subdivision (b) of Section 487.020, the court shall order the release of the exempt property and may make such further order as the court deems appropriate to protect against frustration of the collection of the plaintiff's claim. The order may permit the plaintiff to attach farm products or inventory of the going business and proceeds or after-acquired property, or both, by filing pursuant to Section 488.405 and may provide reasonable restrictions on the disposition of the property previously attached.

488.405. (a) This section provides an alternative method of attaching farm products or inventory of a going business in the possession or under the control of the defendant, but this section does not apply to property described in Section 488.325. This section applies if the plaintiff instructs the levying officer to attach the farm products or inventory under this section.

(b) To attach under this section farm products or inventory of a going business in the possession or under the control of the defendant, the levying officer shall file a notice of attachment with the Secretary of State.

(c) Except as provided in subdivisions (d) and (e), the filing of the notice of attachment gives the plaintiff an attachment lien on all of the following:

(1) The farm products or inventory described in the notice.

(2) Identifiable cash proceeds (as that term is used in Section 9306 of the Commercial Code).

(3) If permitted by the writ of attachment or court order, after-acquired property.

(d) The attachment lien created by the filing of the notice of attachment under this section does not extend to either of the following:

(1) A vehicle or vessel required to be registered with the Department of Motor Vehicles or a mobilehome or commercial coach required to be registered pursuant to the Health and Safety Code.

(2) The inventory of a retail merchant held for sale except to the extent that the inventory of the retail merchant consists of durable goods having a unit retail value of at least five hundred dollars ($500). For the purposes of this paragraph, "retail merchant" does not include (A) a person whose sales for resale exceeded 75 percent in dollar volume of the person's total sales of all goods during the 12 months preceding the filing of the notice of attachment or (B) a cooperative association organized pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code (agricultural cooperative associations) or Part 3 (commencing with Section 13200) of Division 3 of Title 1 of the Corporations Code (Fish Marketing Act).

(e) If property subject to an attachment lien under this section becomes a fixture (as defined in Section 9313 of the Commercial Code), the attachment lien under this section is extinguished.

(f) The notice of attachment shall be in the form prescribed by the Secretary of State and shall contain all of the following:

(1) The name and mailing address of the plaintiff.

(2) The name and last known mailing address of the defendant.

(3) The title of the court where the action is pending and the cause and number of the action.

(4) A description of the farm products and inventory attached.

(5) A statement that the plaintiff has acquired an attachment lien on the described property and on identifiable cash proceeds (as that

term is used in Section 9306 of the Commercial Code) and, if permitted by the writ of attachment or court order, on after-acquired property.

(g) Upon presentation of a notice of attachment under this section for filing and tender of the filing fee to the office of the Secretary of State, the notice of attachment shall be filed, marked, and indexed in the same manner as a financing statement. The fee for filing in the office of the Secretary of State is the same as the fee for filing a financing statement in the standard form.

(h) Upon the request of any person, the Secretary of State shall issue a certificate showing whether there is on file in that office on the date and hour stated therein any notice of attachment filed against the farm products or inventory of a particular person named in the request. If a notice of attachment is on file, the certificate shall state the date and hour of filing of each such notice of attachment and any notice affecting any such notice of attachment and the name and address of the plaintiff. The fee for the certificate issued pursuant to this subdivision is the same as the fee for a certificate issued pursuant to Section 9407 of the Commercial Code. Upon request, the Secretary of State shall furnish a copy of any notice of attachment or notice affecting a notice of attachment for the fee for a copy prescribed by subdivision (2) of Section 9407 of the Commercial Code.

(i) The fee for filing, indexing, and furnishing filing data for a notice of extension of attachment is the same as the fee for a continuation statement under Section 9403 of the Commercial Code. The fee for filing, indexing, and furnishing filing data for a notice of release of attachment is the same as the fee for a statement of release under Section 9405 of the Commercial Code.

488.415. To attach personal property used as a dwelling, the levying officer shall comply with Section 700.080.

488.425. If a vehicle or vessel is attached and a certificate of ownership has been issued by the Department of Motor Vehicles for the vehicle or vessel and the certificate of ownership is still in effect, or if a mobilehome or commercial coach is attached and a certificate of title has been issued by the Department of Housing and Community Development for the mobilehome or commercial coach and the certificate of title is still in effect, the levying officer shall comply with Section 700.090.

488.435. (a) To attach chattel paper, the levying officer shall comply with Section 700.100.

(b) In addition to any other rights created by a levy on chattel paper, the levy creates a lien on the defendant's rights in specific goods subject to the chattel paper.

488.440. To attach an instrument, the levying officer shall comply with Section 700.110.

488.445. To attach a negotiable document of title, the levying officer shall comply with Section 700.120.

488.450. To attach a security, the levying officer shall comply with

Section 8317 of the Commercial Code.

488.455. (a) To attach a deposit account, the levying officer shall personally serve a copy of the writ of attachment and a notice of attachment on the financial institution with which the deposit account is maintained.

(b) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ of attachment and a notice of attachment on any third person in whose name the deposit account stands.

(c) Subject to Section 488.465, during the time the attachment lien is in effect, the financial institution shall not honor a check or other order for the payment of money drawn against, and shall not pay a withdrawal from, the deposit account that would reduce the deposit account to an amount less than the amount attached. For the purposes of this subdivision, in determining the amount of the deposit account, the financial institution shall not include the amount of items deposited to the credit of the deposit account that are in the process of being collected.

(d) During the time the attachment lien is in effect, the financial institution is not liable to any person for any of the following:

(1) Performance of the duties of a garnishee under the attachment.

(2) Nonpayment of a check or other order for the payment of money drawn or presented against the deposit account where the nonpayment is pursuant to the requirements of subdivision (c).

(3) Refusal to pay a withdrawal from the deposit account where the refusal is pursuant to the requirements of subdivision (c).

(e) When the amount attached pursuant to this section is paid to the levying officer, the attachment lien on the attached deposit account terminates.

488.460. (a) To attach property in a safe-deposit box, the levying officer shall personally serve a copy of the writ of attachment and a notice of attachment on the financial institution with which the safe-deposit box is maintained.

(b) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ of attachment and a notice of attachment on any third person in whose name the safe-deposit box stands.

(c) Subject to Section 488.465, during the time the attachment lien is in effect, the financial institution shall not permit the removal of any of the contents of the safe-deposit box except pursuant to the attachment.

(d) The levying officer may first give the person in whose name the safe-deposit box stands an opportunity to open the safe-deposit box to permit the removal pursuant to the attachment of the attached property. The financial institution may refuse to permit the forcible opening of the safe-deposit box to permit the removal of the attached property unless the plaintiff pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage

caused thereby.

(e) During the time the attachment lien is in effect, the financial institution is not liable to any person for any of the following:

(1) Performance of the duties of a garnishee under the attachment.

(2) Refusal to permit access to the safe-deposit box by the person in whose name it stands.

(3) Removal of any of the contents of the safe-deposit box pursuant to the attachment.

488.465. (a) The provisions of this section apply in addition to the provisions of Sections 488.455 and 488.460 if any of the following property is attached:

(1) A deposit account standing in the name of a third person or in the names of both the defendant and a third person.

(2) Property in a safe-deposit box standing in the name of a third person or in the names of both the defendant and a third person.

(b) The plaintiff shall provide, and the levying officer shall deliver to the financial institution at the time of levy, an undertaking given by a corporate surety authorized to execute the undertaking by Section 1056. The undertaking shall be for not less than twice the amount of the attachment or, if a lesser amount in a deposit account is sought to be levied upon, not less than twice the lesser amount. The undertaking shall indemnify any third person rightfully entitled to the property against actual damage by reason of the attachment of the property and shall assure to the third person the return of the property upon proof of the person's right thereto. The undertaking need not name the third person specifically but may refer to the third person generally in the same manner as in this subdivision. If the provisions of this subdivision are not satisfied, the attachment is ineffective and the financial institution shall not comply with the requirements of this section or with the attachment.

(c) Upon delivery of the undertaking to the financial institution, the financial institution shall immediately mail or deliver a notice of the delivery of the undertaking to the third person in whose name the deposit account or safe-deposit box stands. If mailed, the notice shall be sent by registered or certified mail addressed to the person's last address known to the financial institution. The financial institution shall deliver the undertaking as directed by the third person.

(d) Notwithstanding Article 4 (commencing with Section 488.600), from the time of levy and delivery of the undertaking to the financial institution until 15 days after the notice is mailed or delivered under subdivision (c) if no objection to the undertaking is made or, if such objection is made, until the court determines that the undertaking is sufficient, the financial institution shall not do any of the following:

(1) Honor a check or other order for the payment of money drawn against, or pay a withdrawal from, the deposit account that would reduce the deposit account to less than the amount attached.

For the purposes of this paragraph, in determining the amount of the deposit account, the financial institution shall not include the amount of items deposited to the credit of the deposit account that are in the process of being collected.

(2) Permit the removal of any of the contents of the safe-deposit box except pursuant to the writ.

(e) The financial institution is not liable to any person for any of the following during the period prescribed in subdivision (d):

(1) Nonpayment of a check or other order for the payment of money drawn or presented against the deposit account where the nonpayment is pursuant to the requirements of subdivision (d).

(2) Refusal to pay a withdrawal from the deposit account where the refusal is pursuant to the requirements of subdivision (d).

(3) Refusal to permit access to the safe-deposit box by the person in whose name it stands.

(4) Removal of any of the contents of the safe-deposit box pursuant to the attachment.

(f) An objection to the undertaking may be made by any person claiming to be rightfully entitled to the property attached. The objection shall be made in the manner provided by Article 1 (commencing with Section 489.010) of Chapter 9.

(g) Upon the expiration of the period prescribed in subdivision (d), the financial institution shall comply with the attachment and Sections 488.455 and 488.460 apply.

488.470. (a) Unless another method of attachment is provided by this article, to attach an account receivable or general intangible, the levying officer shall personally serve a copy of the writ of attachment and a notice of attachment on the account debtor.

(b) If an attachment is made under subdivision (a) and payments on the account receivable or general intangible are made to a person other than the defendant (whether pursuant to a security agreement, assignment for collection, or otherwise), the levying officer shall, if so instructed by the plaintiff, personally serve a copy of the writ of attachment and a notice of attachment on such third person. Service of the copy of the writ and notice of attachment on the third person is an attachment of any amounts owed to the defendant by the third person.

488.475. (a) The following property may be attached pursuant to this article notwithstanding that the property levied upon is the subject of a pending action or special proceeding:

(1) Real property.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead.

(3) Tangible personal property in the possession or under the control of the defendant or in the custody of a levying officer.

(4) The interest of a defendant in personal property in the estate of a decedent, whether the interest arises by testate or intestate succession.

(b) Except as provided in subdivision (a), attachment of property that is the subject of an action or special proceeding pending at the time of the attachment is not effective.

(c) If attachment is attempted but is ineffective under subdivision (b) and the levying officer has requested a garnishee's memorandum under Section 488.610 in connection with the ineffective attachment, the garnishee's memorandum shall include the following information in addition to that required by Section 488.610:

(1) A statement that the attachment of the property is not effective because the property is the subject of a pending action or special proceeding.

(2) The title of the court and the cause and number of the pending action or proceeding.

(d) For the purpose of this section, an action or proceeding is pending from the time the action or proceeding is commenced until judgment has been entered and the time for appeal has expired or, if an appeal is filed, until the appeal has been finally determined.

(e) Nothing in this section affects or limits the right of the plaintiff to obtain a lien pursuant to Article 3 (commencing with Section 491.410) of Chapter 11.

488.480. (a) As used in this section, "final money judgment" means a money judgment after the time for appeal from the judgment has expired or, if an appeal is filed, after the appeal has been finally determined.

(b) To attach a final money judgment, the levying officer shall file a copy of the writ of attachment and a notice of attachment with the clerk of the court that entered the final money judgment. The court clerk shall endorse upon the judgment a statement of the existence of the attachment lien and the time it was created. If an abstract of the judgment is issued, it shall include a statement of the attachment lien in favor of the plaintiff.

(c) At the time of levy or promptly thereafter, the levying officer shall personally serve a copy of the writ of attachment and a notice of attachment on the judgment debtor obligated to pay the final money judgment attached. The filing with the court clerk pursuant to subdivision (b) is not, of itself, notice to the judgment debtor obligated to pay the attached judgment so as to invalidate any payments made by him or her that would otherwise be applied to the satisfaction of the attached judgment.

488.485. (a) To attach the interest of the defendant in personal property in the estate of a decedent, whether the interest arises by testate or intestate succession, the levying officer shall personally serve a copy of the writ of attachment and a notice of attachment on the personal representative of the decedent. The attachment does not impair the powers of the representative over the property for the purposes of administration.

(b) The personal representative shall report the attachment to the court in which the estate is being administered when any

petition for distribution is filed. If a decree orders distribution to the defendant, the court making the decree shall order the attached property to be deliverd to the levying officer. The property may not be delivered to the levying officer until the decree distributing the propety has become final. To the extent the property delivered to the levying officer is not necessary to satisfy the attachment, it shall be released to the defendant.

(c) Promptly after the property is delivered to the levying officer pursuant to subdivision (b), the levying officer shall serve a notice describing the property on the defendant. Notwithstanding Sections 484.070, 484.350, 484.530, and 485.610, a claim of exemption for the property described in the notice may be made within 10 days after the notice was served on the defendant.

Article 3. Lien of Attachment

488.500. (a) A levy on property under a writ of attachment creates an attachment lien on the property from the time of levy until the expiration of the time provided by Section 488.510.

(b) Except as provided in subdivisions (c) and (d), if property subject to an attachment lien is transferred or encumbered, the property transferred or encumbered remains subject to the lien after the transfer or encumbrance to the same extent that the property would remain subject to an execution lien pursuant to Sections 697.720 to 697.750, inclusive.

(c) Except as otherwise provided in this title, if equipment is attached pursuant to Section 488.375 or farm products or inventory is attached pursuant to Section 488.405, the attachment lien on the property covered by the attachment lien has the same force and effect as a judgment lien on personal property created at the same time would have pursuant to Sections 697.590 to 697.620, inclusive.

(d) If equipment consisting of a vehicle, vessel, mobilehome, or commercial coach is attached pursuant to Section 488.385, the attachment lien on the specified property does not affect the rights of a person who is a bona fide purchaser or encumbrancer and obtains possession of both the property and its certificate of ownership issued by the Department of Motor Vehicles or its certificate of title or registration card issued by the Department of Housing and Community Development. If the levying officer obtains possession of the certificate of ownership or certificate of title or registration card, the attachment lien has the priority of the lien of a lien creditor under Section 9301 of the Commercial Code as of the time possession is obtained by the levying officer. If the levying officer does not obtain possession of the certificate of ownership or certificate of title or registration card, the attachment lien has the same force and effect as an unperfected security interest that attached at the same time as the notice of attachment was filed.

(e) If an attachment lien is created on property that is subject to the lien of a temporary protective order or a lien under Article 1

(commencing with Section 491.110) of Chapter 11, the priority of the attachment lien relates back to the date the earlier lien was created. Nothing in this subdivision affects priorities or rights of third persons established while the lien of the temporary protective order or the lien under Article 1 (commencing with Section 491.110) of Chapter 11 was in effect as determined under the law governing the effect of such lien.

488.510. (a) Unless sooner released or discharged, any attachment shall cease to be of any force or effect, and the property levied upon shall be released from the operation of the attachment, at the expiration of three years from the date of issuance of the writ of attachment under which the levy was made.

(b) Notwithstanding subdivision (a), upon motion of the plaintiff, made not less than 10 or more than 60 days before the expiration of the three-year period and upon notice of not less than five days to the defendant whose property is attached, the court in which the action is pending may, by order filed prior to the expiration of the period and for good cause, extend the time of the attachment for a period not exceeding one year from the date on which the attachment would otherwise expire.

(c) The levying officer shall serve notice of the order upon any person holding property pursuant to an attachment and shall record or file the notice in any office where the writ and notice of attachment are recorded or filed prior to the expiration of the period described in subdivision (a) or any extension thereof. Where the attached property is real property, the plaintiff or the plaintiff's attorney, instead of the levying officer, may record the required notice.

(d) Any attachment may be extended from time to time in the manner prescribed in this section, but the maximum period of the attachment, including the extensions, shall not exceed eight years from the date of issuance of the writ of attachment under which the levy of attachment was made.

(e) The death of the defendant whose property is attached does not terminate the attachment.

Article 4. Duties and Liabilities of Third Persons After Levy

488.600. (a) Sections 701.010, 701.020, 701.040, 701.050, and 701.060 prescribe duties and liabilities of a third person under a levy made under this title.

(b) For the purposes of this section, references in Sections 701.010, 701.020, 701.040, 701.050, and 701.060 to:

(1) "Amount required to satisfy the judgment" shall be deemed references to the amount required to satisfy the amount to be secured by the attachment.

(2) "Execution lien" or "lien" shall be deemed references to the attachment lien.

(3) "Judgment creditor" shall be deemed references to the

plaintiff.

(4) "Judgment debtor" shall be deemed references to the defendant.

(5) "Levy" shall be deemed references to levy of attachment.

(6) "Notice of levy" shall be deemed references to notice of attachment.

(7) "Release" of property shall be deemed references to release of property pursuant to this title.

(8) "Satisfaction or discharge of the judgment" shall be deemed references to the satisfaction or termination of the attachment.

(9) "Writ" or "writ of execution" shall be deemed references to a writ of attachment.

488.610. (a) At the time of service of a copy of the writ of attachment and a notice of attachment on a third person, the levying officer shall request the third person to give the levying officer a garnishee's memorandum containing the information required by this section. Within 10 days after the request is made, the third person shall mail or deliver the garnishee's memorandum to the levying officer whether or not the levy is effective.

(b) The garnishee's memorandum shall be executed under oath and shall contain the following information:

(1) A description of any property of the defendant sought to be attached that is not delivered to the levying officer and the reason for not delivering the property.

(2) A statement of the amount and terms of any obligation to the defendant sought to be attached that is due and payable and is not paid to the levying officer and the reason for not paying the obligation.

(3) A statement of the amount and terms of any obligation to the defendant sought to be attached that is not due and payable at the time of levy.

(4) A description of claims and rights of other persons to the attached property or obligation that are known to the third person and the names and addresses of those other persons.

(c) If a garnishee's memorandum is received from the third person, the levying officer shall promptly mail or deliver a copy of the memorandum to the plaintiff and attach the original to the writ when it is returned to the court. If a garnishee's memorandum is not received from the third person, the levying officer shall so state in the return.

(d) Except as provided in subdivisions (e) and (f), if a third person does not give the levying officer a garnishee's memorandum within the time provided in subdivision (a) or does not provide complete information, the third person may, in the court's discretion, be required to pay the costs and reasonable attorney's fees incurred in any proceedings to obtain the information required in the garnishee's memorandum.

(e) Notwithstanding subdivision (a), where a deposit account or property in a safe deposit box is attached, the financial institution

need not give a garnishee's memorandum to the levying officer if the financial institution fully complies with the levy and, if a garnishee's memorandum is required, the garnishee's memorandum need provide information with respect only to property which is carried on the records available at the office or branch where the levy is made.

(f) Notwithstanding subdivision (a), the third person need not give a garnishee's memorandum to the levying officer if both of the following conditions are satisfied:

(1) The third person has delivered to the levying officer all of the property sought to be attached.

(2) The third person has paid to the levying officer the amount due at the time of levy on any obligation to the defendant that was attached and there is no additional amount that thereafter will become payable on the obligation levied upon.

Article 5. Management and Disposition of Attached Property

488.700. (a) If property has been or is sought to be attached, the court may appoint a receiver or order the levying officer to take any action the court orders that is necessary to preserve the value of the property, including but not limited to selling the property, if the court determines that the property is perishable or will greatly deteriorate or greatly depreciate in value or that for some other reason the interests of the parties will be best served by the order. An order may be made under this subdivision upon application of the plaintiff, the defendant, or a person who has filed a third-party claim pursuant to Division 4 (commencing with Section 720.010) of Title 9. The application shall be made on noticed motion if the court so directs or a court rule so requires. Otherwise, the application may be made ex parte.

(b) If the levying officer determines that property is extremely perishable or will greatly deteriorate or greatly depreciate in value before a court order pursuant to subdivision (a) could be obtained, the levying officer may take any action necessary to preserve the value of the property or may sell the property. The levying officer is not liable for a determination made in good faith under this subdivision.

(c) Except as otherwise provided by order of the court, a sale of the property pursuant to this section shall be made in the manner provided by Article 6 (commencing with Section 701.510) of Chapter 3 of Division 2 of Title 9 and the proceeds shall be deposited in the court to abide the judgment in the action. Notwithstanding subdivisions (b) and (d) of Section 701.530, notice of sale shall be posted and served at a reasonable time before sale, considering the character and condition of the property.

(d) If a receiver is appointed, the court shall fix the daily fee of the receiver and may order the plaintiff to pay the fees and expenses of the receiver in advance or may direct that the whole or any part

of the fees and expenses be paid from the proceeds of any sale of the property. Except as otherwise provided in this section, the provisions of Chapter 5 (commencing with Section 564) and Chapter 5a (commencing with Section 571) of Title 7 govern the appointment, qualifications, powers, rights, and duties of a receiver appointed under this section.

488.710. (a) As used in this section, "instrument" means a check, draft, money order, or other order for the withdrawal of money from a financial institution, the United States, any state, or any public entity within any state.

(b) If an instrument is payable to the defendant on demand and comes into the possession of a levying officer pursuant to this title, the levying officer shall promptly endorse and present the instrument for payment.

(c) The levying officer shall endorse the instrument by writing on the instrument (1) the name of the defendant, (2) the name and official title of the levying officer, and (3) the title of the court and the cause in which the writ was issued. The endorsement is as valid as if the instrument were endorsed by the defendant. No financial institution or public entity on which the instrument is drawn is liable to any person for payment of the instrument to the levying officer rather than to the defendant by reason of the endorsement. No levying officer is liable by reason of endorsing, presenting, and obtaining payment of the instrument. The funds or credit resulting from the payment of the instrument shall be held by the levying officer subject to the lien of attachment.

(d) If it appears from the face of the instrument that it has been tendered to the defendant in satisfaction of a claim or demand and that endorsement of the instrument is considered a release and satisfaction by the defendant of the claim or demand, the levying officer shall not endorse the instrument unless the defendant has first endorsed it to the levying officer. If the defendant does not endorse the instrument to the levying officer, the levying officer shall hold the instrument for 30 days and is not liable to the defendant or to any other person for delay in presenting it for payment. At the end of the 30-day holding period, the levying officer shall return the instrument to the maker.

488.720. (a) The defendant may apply by noticed motion to the court in which the action is pending or in which the judgment in the action was entered for an order releasing the attachment of property to the extent that the value of the defendant's interest in the property clearly exceeds the amount necessary to satisfy the amount to be secured by the attachment.

(b) The notice of motion shall state the grounds on which the motion is based and shall be accompanied by an affidavit supporting any factual issues raised and points and authorities supporting any legal issues raised.

(c) At the hearing on the motion, the court shall determine the value of the defendant's interest in the property and order the

release of the attachment of the property to the extent that the value of the defendant's interest in the property attached clearly exceeds the amount necessary to satisfy the amount to be secured by the attachment. After entry of judgment in the action in which the property was attached, the court shall also take into consideration in determining whether the attachment is clearly excessive the value of any property not attached in the action that (1) has been levied upon pursuant to a writ of execution issued to satisfy the judgment in the action or (2) otherwise has been sought to be applied to the satisfaction of the judgment in the action.

(d) The court's determinations shall be made upon the basis of the pleadings and other papers in the record; but, upon good cause shown, the court may receive and consider at the hearing additional evidence, oral or documentary, and additional points and authorities, or it may continue the hearing for the production of the additional evidence or points and authorities.

488.730. (a) The levying officer shall release attached property when the levying officer receives a written direction to release the property from the plaintiff's attorney of record or, if the plaintiff does not have an attorney of record, from the plaintiff or when the levying officer receives a certified copy of a court order for release or when otherwise required to release the property. The release extinguishes any attachment lien in favor of the plaintiff on the property released.

(b) If the property to be released has been taken into custody under the levy, it shall be released to the person from whom it was taken unless otherwise ordered by the court. If the person does not claim the property to be released, the levying officer shall retain custody of the property and shall serve on the person a notice of where possession of the property may be obtained. If the person does not claim the property within 30 days after the notice is served, the levying officer shall sell the property (other than cash and property which does not have a value exceeding its face value) in the manner provided by Article 6 (commencing with Section 701.510) of Chapter 3 of Division 2 of Title 9. The levying officer shall deposit the proceeds of sale and cash, after first deducting the levying officer's costs, with the county treasurer of the county where the property is located payable to the order of the person. If the amount deposited is not claimed by the person or the legal representative of the person 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.

(c) If the property to be released has not been taken into custody under the levy, the levying officer shall release the attachment by issuing a written notice of release and serving it on the person who was served with a copy of the writ and a notice of attachment to create the lien.

(d) If the property to be released was levied upon by recording or filing a copy of the writ and a notice of attachment, the levying officer shall record or file a written notice of release in the same

office.

(e) The levying officer is not liable for releasing an attachment in accordance with this section and no other person is liable for acting in conformity with the release.

488.740. If the defendant recovers judgment against the plaintiff and no timely motion for vacation of judgment or for judgment notwithstanding the verdict or for a new trial is filed and served and is pending and no appeal is perfected and undertaking executed and filed as provided in Section 921, any undertaking received from the defendant in the action, all the proceeds of sales and money collected by the levying officer, and all the property attached remaining in the levying officer's hands shall be delivered to the person from whom it was collected or taken, unless otherwise ordered by the court; and the court shall order the discharge of any attachment made in the action and the release of any property held thereunder.

SEC. 50.5. Section 488.080 is added to the Code of Civil Procedure, to read:

488.080. (a) A registered process server may levy under a writ of attachment on the following types of property:

(1) Real property, pursuant to Section 488.315.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 488.325.

(3) Personal property in the custody of a levying officer, pursuant to Section 488.355.

(4) Equipment of a going business, pursuant to Section 488.375.

(5) Motor vehicles, vessels, mobilehomes, or commercial coaches used as equipment of a going business, pursuant to Section 488.385.

(6) Farm products or inventory of a going business, pursuant to Section 488.405.

(7) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(8) Deposit accounts, pursuant to Section 488.455 or 488.465.

(9) Property in a safe deposit box, pursuant to Section 488.460 or 488.465.

(10) Accounts receivable or general intangibles, pursuant to Section 488.470.

(11) Final money judgments, pursuant to Section 488.480.

(12) Interest of a defendant in personal property in the estate of a decedent, pursuant to Section 488.485.

(b) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do all of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 2 (commencing with Section 488.300).

(2) Deliver any undertaking required by Section 488.465.

(3) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section

488.610.

(c) Within five days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of attachment.

(2) An affidavit of the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of attachment on other persons as required by Article 2 (commencing with Section 488.300).

(4) Instructions in writing, as required by the provisions of Section 488.030.

(d) Upon receipt of the fee provided by Section 26721 of the Government Code, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court.

The levying officer is not liable for actions taken in conformance with the provisions of this title in reliance on information provided to the levying officer under subdivision (c) except to the extent that the levying officer has actual knowledge that the information is incorrect. Nothing in this subdivision limits any liability the plaintiff or registered process server may have if the levying officer acts on the basis of incorrect information provided under subdivision (c).

(e) The fee for services of a registered process server under this section may, in the court's discretion, be allowed as a recoverable cost. If allowed, the amount of the fee to be allowed is governed by Section 1032.8.

SEC. 51. Section 489.240 of the Code of Civil Procedure is repealed.

SEC. 52. Section 489.320 of the Code of Civil Procedure is amended to read:

489.320. (a) A defendant who has been served with a temporary protective order and who has appeared in the action may apply by noticed motion to the court in which the action is pending for an order terminating the temporary protective order with respect to that defendant.

(b) The defendant shall file an undertaking to pay the plaintiff the amount of any judgment recovered by the plaintiff in the action against the defendant. The amount of the undertaking filed pursuant to this section shall be equal to the amount sought to be secured by the attachment. The court shall issue the order terminating the temporary protective order with respect to the defendant upon the condition that a sufficient undertaking be filed.

SEC. 53. Section 490.010 of the Code of Civil Procedure is amended to read:

490.010. A wrongful attachment consists of any of the following:

(a) The levy under a writ of attachment or the service of a temporary protective order in an action in which attachment is not authorized, except that it is not a wrongful attachment if both of the following are established:

(1) The levy was not authorized solely because of the prohibition of subdivision (c) of Section 483.010.

(2) The person who sold or leased, or licensed for use, the property, furnished the services, or loaned the money reasonably believed that it would not be used primarily for personal, family, or household purposes.

(b) The levy under a writ of attachment or the service of a temporary protective order in an action in which the plaintiff does not recover judgment.

(c) The levy under writ of attachment obtained pursuant to Article 3 (commencing with Section 484.510) of Chapter 4 or Chapter 5 (commencing with Section 485.010) on property exempt from attachment except where the plaintiff shows that the plaintiff reasonably believed that the property attached was not exempt from attachment.

SEC. 54. Section 490.020 of the Code of Civil Procedure is amended to read:

490.020. (a) The liability of a plaintiff for causing a wrongful attachment under Section 490.010 includes both of the following:

(1) All damages proximately caused to the defendant by the wrongful attachment.

(2) All costs and expenses, including attorney's fees, reasonably expended in defeating the attachment.

(b) The liability of a plaintiff for wrongful attachment pursuant to Section 490.010 is limited by the amount of the undertaking.

SEC. 55. Section 490.050 of the Code of Civil Procedure is repealed.

SEC. 56. Chapter 11 (commencing with Section 491.010) of Title 6.5 of Part 2 of the Code of Civil Procedure is repealed.

SEC. 57. Chapter 11 (commencing with Section 491.110) is added to Title 6.5 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 11. ATTACHING PLAINTIFF'S MISCELLANEOUS REMEDIES

Article 1. Examination of Third Person

491.110. (a) Upon ex parte application by the plaintiff and proof by the plaintiff by affidavit or otherwise to the satisfaction of the proper court that the plaintiff has a right to attach order and that a third person has possession or control of property in which the defendant has an interest or is indebted to the defendant in an amount exceeding two hundred fifty dollars ($250), the court shall make an order directing the third person to appear before the court, or before a referee appointed by the court, at a time and place specified in the order, to answer concerning the property or debt. The affidavit in support of the plaintiff's application may be based on the affiant's information and belief.

(b) Not less than 10 days prior to the date set for the examination,

a copy of the order shall be:

(1) Served personally on the third person.

(2) Served personally or by mail on the defendant.

(c) If the property or the debt is described in the affidavit or application for an order under subdivision (a) in a manner reasonably adequate to permit it to be identified, service of the order on the third person creates a lien on the defendant's interest in the property in the third person's possession or control or on the debt owed by the third person to the defendant. The lien continues for a period of one year from the date of the order unless extended or sooner terminated by the court.

(d) The order shall contain the following statement in 14-point boldface type if printed or in capital letters if typed: "NOTICE TO PERSON SERVED. If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court and the court may make an order requiring you to pay the reasonable attorney's fees incurred by the plaintiff in this proceeding."

(e) The order is not effective unless, at the time it is served on the third person, the person serving the order tenders to the third person fees for the mileage necessary to be traveled from the third person's residence to the place of examination. The fees shall be in the same amount generally provided for witnesses when legally required to attend civil proceedings in the court where the examination proceeding is to be conducted.

491.120. In any proceeding for the examination of a third person under this article, witnesses, including the defendant, may be required to appear and testify before the court or referee in the same manner as upon the trial of an issue.

491.130. (a) The examination proceedings authorized by this article may be conducted by a referee appointed by the court. The referee may issue, modify, or vacate an order authorized by Section 491.190, may make a protective order authorized by Section 491.180, and may issue a warrant authorized by Section 491.160, and has the same power as the court to grant adjournments, to preserve order, and to subpoena witnesses to attend the examination, but only the court that ordered the reference has power to do any of the following:

(1) Punish for contempt for disobeying an order of the referee.

(2) Make an award of attorney's fees pursuant to Section 491.160.

(3) Determine a third-party claim under Section 491.170.

(b) Only a member of the State Bar of California is eligible for appointment as a referee pursuant to this article.

(c) Nothing in subdivision (a) limits the power of a court to appoint a temporary judge pursuant to Section 21 of Article VI of the California Constitution.

491.140. (a) If a corporation, partnership, association, trust, or other organization is served with an order to appear for an examination, it shall designate to appear and be examined one or

more officers, directors, managing agents, or other persons who are familiar with its property and debts.

(b) If the order to appear for an examination requires the appearance of a specified individual, the specified individual shall appear for the examination and may be accompanied by one or more officers, directors, managing agents, or other persons familiar with the property and debts of the corporation, partnership, association, trust, or other organization.

(c) If the order to appear for the examination does not require the appearance of a specified individual, the order shall advise the corporation, partnership, association, trust, or other organization of its duty to make a designation under subdivision (a).

491.150. (a) Except as otherwise provided in this section, the proper court for examination of a person under this article is the court that issued the writ of attachment.

(b) A person sought to be examined may not be required to attend an examination before a court located outside the county in which the person resides or has a place of business unless the distance from the person's place of residence or place of business to the place of examination is less than 150 miles.

(c) If a person sought to be examined does not reside or have a place of business in the county where the court that issued the writ is located, a court of similar jurisdiction in the county where the person resides or has a place of business is a proper court for examination of the person. If there is no court of similar jurisdiction in the county, a court of higher jurisdiction is a proper court.

(d) If the plaintiff seeks an examination of a person before a court other than the court that issued the writ, the plaintiff shall do all of the following:

(1) File with the court from which the order is sought a certified copy of the complaint in the pending action.

(2) Present to the court an affidavit in support of the application for the order stating the place of residence or place of business of the person sought to be examined.

(3) Make any necessary affidavit or showing for the examination as required by Section 491.110.

(4) At the time of filing the application for the order, pay a filing fee of twelve dollars ($12). No law library fee shall be charged.

491.160. (a) If an order requiring a person to appear for an examination was served by a sheriff, marshal, constable, a person specially appointed by the court in the order, or a registered process server, and the person fails to appear:

(1) The court may, pursuant to a warrant, have the person brought before the court to answer for the failure to appear and may punish the person for contempt.

(2) If the person's failure to appear is without good cause, the plaintiff shall be awarded reasonable attorney's fees incurred in the examination proceeding.

(b) A person who willfully makes an improper service of an order

for an examination which subsequently results in the arrest pursuant to subdivision (a) of the person who fails to appear is guilty of a misdemeanor.

491.170. (a) Subject to subdivision (b), if a third person examined pursuant to this article claims an interest in the property adverse to the defendant or denies the debt, the court may, if the plaintiff so requests, determine the interests in the property or the existence of the debt. Such a determination is conclusive as to the plaintiff, the defendant, and the third person, but an appeal may be taken from the determination in the manner provided for appeals from the court in which the proceeding takes place. The court may grant a continuance for a reasonable time for discovery proceedings, the production of evidence, or other preparation for the hearing.

(b) The court may not make the determination provided in subdivision (a) if the third person's claim is made in good faith and any of the following conditions is satisfied:

(1) The court would not be a proper court for the trial of an independent civil action (including a creditor's suit) for the determination of the interests in the property or the existence of the debt, and the third person objects to the determination of the matter under subdivision (a).

(2) At the time an order for examination pursuant to this article is served on the third person a civil action (including a creditor's suit) is pending with respect to the interests in the property or the existence of the debt.

(3) The court determines that the interests in the property or the existence of the debt should be determined in a creditor's suit.

(c) Upon application of the plaintiff made ex parte, the court may make an order forbidding transfer of the property to the defendant or payment of the debt to the defendant until the interests in the property or the existence of the debt is determined pursuant to subdivision (a) or until a creditor's suit may be commenced and an order obtained pursuant to Section 491.340. An undertaking may be required in the discretion of the court. The court may modify or vacate the order at any time with or without a hearing on such terms as are just.

(d) Upon application of the plaintiff upon noticed motion, the court, if it determines that the defendant probably owns an interest in the property or that the debt probably is owed to the defendant, may make an order forbidding the transfer or other disposition of the property to any person or forbidding payment of the debt until the interests in the property or the existence of the debt is determined pursuant to subdivision (a) or until a creditor's suit may be commenced and an order obtained pursuant to Section 491.340. The court shall require the plaintiff to furnish an undertaking as provided in Section 529. The court may modify or vacate the order at any time after notice and hearing on such terms as are just.

491.180. In any proceeding under this article, the court may, on motion of the person to be examined or on its own motion, make such

protective orders as justice may require.

491.190. (a) Except as provided in subdivision (b), at the conclusion of a proceeding pursuant to this article:

(1) The court may order the defendant's interest in the property in the possession or under the control of the third person or a debt owed by the third person to the defendant to be attached in the manner and under the conditions provided by this title or to be delivered or paid to the levying officer if the levying officer has a writ of attachment permitting the attachment of the property or debt. After the property or debt has been attached, the order may be enforced as provided in Section 491.360. The order creates a lien on the property or debt. The lien continues for a period of one year from the date of the order unless the court extends or reduces the period of the existence of the lien.

(2) If the property or debt has previously been attached, the court may make an order determining the third person's liability, and the order may be enforced as provided in Section 491.360.

(b) If a third person examined pursuant to this article claims an interest in the property adverse to the defendant or denies the debt and the court does not determine the matter as provided in subdivision (a) of Section 491.170, the court may not make an order under subdivision (a) of this section, but may make an order pursuant to subdivision (c) or (d) of Section 491.170 forbidding transfer or payment to the extent authorized by that section.

491.200. A lien created under this article continues on property subject to the lien notwithstanding the transfer or encumbrance of the property subject to the lien unless the transfer or encumbrance is made to a person listed in Section 697.740.

Article 2. Creditor's Suit

491.310. If a third person has possession or control of property in which the defendant has an interest or is indebted to the defendant and the property or debt has been subjected to an attachment lien, the plaintiff may bring an action against the third person to enforce the third person's liability under this title.

491.320. The defendant shall be joined in an action brought pursuant to this article but is not an indispensable party. The residence of the defendant may not be considered in the determination of proper venue unless otherwise provided by contract between the defendant and the third person.

491.330. (a) Except as provided in subdivision (b), an action shall be commenced pursuant to this article before the expiration of the later of the following times:

(1) The time when the defendant may bring an action against the third person concerning the property or debt.

(2) One year after creation of an attachment lien on the property or debt pursuant to this title if the lien is created at the time when the defendant may bring an action against the third person

concerning the property or debt.

(b) An action may not be commenced pursuant to this article if the attachment lien is not in effect.

(c) If an action is commenced pursuant to this article within the time permitted in this section, the action may be prosecuted to judgment so long as the attachment lien or a lien of the plaintiff on the same property pursuant to Title 9 (commencing with Section 680.010) is in effect.

491.340. The plaintiff may apply to the court in which an action under this article is pending for either or both of the following:

(a) An order restraining the third person from transferring the attached property to the defendant or from paying the attached debt to the defendant. The order shall be made on noticed motion if the court so directs or a court rule so requires. Otherwise, the order may be made on ex parte application. The order shall remain in effect until judgment is entered in the action or until such earlier time as the court may provide in the order. An undertaking may be required in the discretion of the court. The court may modify or vacate the order at any time with or without a hearing on such terms as are just.

(b) A temporary restraining order or a preliminary injunction or both, restraining the third person from transferring to any person or otherwise disposing of the attached property, pursuant to Chapter 3 (commencing with Section 525) of Title 7, and the court may make, dissolve, and modify such orders as provided therein.

491.350. There is no right to a jury trial in an action under this article.

491.360. If the plaintiff establishes the liability of the third person, the court shall render judgment accordingly. The judgment may be enforced in the same manner as it could be enforced if it had been obtained by the defendant against the third party; but, prior to entry of judgment in favor of the plaintiff against the defendant, any money or property obtained in enforcing the judgment against the third party shall be paid or delivered into court to abide the judgment in the action of the plaintiff against the defendant or shall be held by a levying officer, or otherwise held, as ordered by the court.

491.370. Costs incurred by or taxed against the plaintiff in an action under this article may not be recovered from the defendant.

Article 3. Lien in Pending Action or Proceeding

491.410. (a) If the plaintiff has obtained a right to attach order and the defendant is a party to a pending action or special proceeding, the plaintiff may obtain a lien under this article, to the extent required to secure the amount to be secured by the attachment, on both of the following:

(1) Any cause of action of the defendant for money or property that is the subject of the other action or proceeding.

(2) The rights of the defendant to money or property under any judgment subsequently procured in the other action or proceeding.

(b) To obtain a lien under this article, the plaintiff shall file a notice of lien and a copy of the right to attach order in the other pending action or special proceeding.

(c) At the time of the filing under subdivision (b) or promptly thereafter, the plaintiff shall serve on all parties who, prior thereto, have made an appearance in the other action or special proceeding a copy of the notice of lien and a statement of the date when the notice of lien was filed in the other action or special proceeding. Failure to serve all parties as required by this subdivision does not affect the lien created by the filing under subdivision (b), but the rights of a party are not affected by the lien until the party has notice of the lien.

(d) For the purpose of this article, an action or special proceeding is pending until the time for appeal from the judgment has expired or, if an appeal is filed, until the appeal has been finally determined.

491.420. The notice of lien under Section 491.410 shall contain all of the following:

(a) A statement that a lien has been created under this article and the title of the court and the cause and number of the pending action or proceeding in which the notice of lien is filed.

(b) The name and last known address of the defendant.

(c) The name and address of the plaintiff.

(d) The title of the court where the plaintiff's action against the defendant is pending and the cause and number of the action.

(e) The amount required to secure the amount to be secured by the attachment at the time the notice of lien is filed in the action or proceeding.

(f) A statement that the lien attaches to any cause of action of the defendant that is the subject of such action or proceeding and to the defendant's rights to money or property under any judgment subsequently procured in the action or proceeding.

(g) A statement that no compromise, dismissal, settlement, or satisfaction of the pending action or proceeding or any of the defendant's rights to money or property under any judgment procured therein may be entered into by or on behalf of the defendant, and that the defendant may not enforce the defendant's rights to money or property under any judgment procured in the pending action or proceeding by a writ or otherwise, unless one of the following requirements is satisfied:

(1) The prior approval by order of the court in which the action or proceeding is pending has been obtained.

(2) The written consent of the plaintiff has been obtained or the plaintiff has released the lien.

491.430. (a) The court in which the action or special proceeding subject to the lien under this article is pending may permit the plaintiff who has obtained the lien to intervene in the action or proceeding pursuant to Section 387.

(b) For the purpose of subdivision (a) of Section 491.460, a plaintiff shall be deemed to be a party to the action or special proceeding even though the plaintiff has not become a party to the action or proceeding under subdivision (a).

491.440. (a) Except as provided in subdivision (c) of Section 491.410, unless the lien is released, the judgment recovered in the action or special proceeding in favor of the defendant may not be enforced by a writ or otherwise, and no compromise, dismissal, settlement, or satisfaction of the pending action or special proceeding or the judgment procured therein may be entered into by or on behalf of the defendant, without the written consent of the plaintiff or authorization by order of the court obtained under subdivision (b).

(b) Upon application by the defendant, the court in which the action or special proceeding subject to the lien under this article is pending or the judgment procured therein is entered may, in its discretion, after a hearing, make an order described in subdivision (a) that may include such terms and conditions as the court deems necessary. The application for an order under this subdivision shall be made on noticed motion. The notice of motion shall be served on the plaintiff.

491.450. (a) If a lien is created pursuant to this article, the court clerk shall endorse upon the judgment recovered in the action or special proceeding a statement of the existence of the lien and the time it was created.

(b) Any abstract issued upon the judgment shall include a statement of the lien in favor of the plaintiff.

491.460. (a) If the defendant is entitled to money or property under the judgment in the action or special proceeding and a lien created under this article exists, upon application of any party to the action or special proceeding, the court may order that the defendant's rights to money or property under the judgment be attached or otherwise applied to the satisfaction of the lien created under this article as ordered by the court. Application for an order under this section shall be on noticed motion. The notice of motion shall be served on all other parties.

(b) If the judgment determines that the defendant has an interest in property, the court may order the party having custody or control of the property not to transfer the property until it can be attached or otherwise applied to the satisfaction of the lien created under this article.

(c) If the court determines that a party (other than the defendant) having notice of the lien created under this article has transferred property that was subject to the lien, or has paid an amount to the defendant that was subject to the lien, the court shall render judgment against the party in an amount equal to the lesser of the following:

(1) The value of the defendant's interest in the property or the amount paid to the defendant.

(2) The amount of the plaintiff's lien created under this article.

(d) A judgment or order under this section may be enforced in the same manner as it could be enforced if it had been obtained by the defendant against the third party; but, prior to entry of judgment in favor of the plaintiff against the defendant, any money or property obtained in enforcing the judgment or order against the third party shall be paid or delivered into court to abide the judgment in the action of the plaintiff against the defendant or shall be held by a levying officer, or otherwise held, as ordered by the court.

SEC. 58. Section 492.010 of the Code of Civil Procedure is amended to read:

492.010. Notwithstanding subdivision (a) of Section 483.010, an attachment may be issued in any action for the recovery of money brought against any of the following:

(a) A natural person who does not reside in this state.

(b) 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.

(c) A foreign partnership which has not filed a designation pursuant to Section 15700 of the Corporations Code.

SEC. 59. Section 492.040 of the Code of Civil Procedure is amended to read:

492.040. Notwithstanding Sections 487.010 and 487.020, a writ of attachment issued under this chapter may be levied upon any property of a defendant for which a method of levy is provided by Article 2 (commencing with Section 488.300) of Chapter 8. However, after the defendant has filed a general appearance in the action, only nonexempt property of the defendant may be levied upon and property previously levied upon which is exempt under Section 487.020 shall be released upon order of the court.

SEC. 60. Section 492.070 of the Code of Civil Procedure is amended to read:

492.070. The application shall be executed under oath and shall include all of the following:

(a) A statement that the plaintiff has been issued a right to attach order and writ of attachment pursuant to Section 492.030.

(b) A statement of the amount to be secured by the attachment.

(c) A description of the property to be attached under the writ of attachment and a statement that the plaintiff is informed and believes that such property is subject to attachment pursuant to Section 492.040. The description shall satisfy the requirements of Section 484.020.

SEC. 61. Section 493.010 of the Code of Civil Procedure is amended to read:

493.010. As used in this chapter, "general assignment for the benefit of creditors" means an assignment which satisfies all of the following requirements:

(a) The assignment is an assignment of all the defendant's assets that are transferable and not exempt from enforcement of a money

judgment.

(b) The assignment is for the benefit of all the defendant's creditors.

(c) The assignment does not itself create a preference of one creditor or class of creditors over any other creditor or class of creditors, but the assignment may recognize the existence of preferences to which creditors are otherwise entitled.

SEC. 62. 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 attached property 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 to be secured by the attachment, executed by a corporate surety possessing a certificate of authority from the Insurance Commissioner as provided by Section 1056.

(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) or (d) of Section 488.730.

(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. 62.5. 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 attached property 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 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) or (d) of Section 488.730.

(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. 63. Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h), (i) and (j), (2) a judgment of contempt which is made final and conclusive by Section 1222, or (3) a judgment on appeal from a municipal court or a justice court or a small claims court.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an interlocutory judgment of dissolution of marriage, including the provisions thereof determining the separate, community, or quasi-community character of the parties' properties, regardless of whether the court in the judgment has reserved jurisdiction pursuant to Section 4800 of the Civil Code to value or divide all or a portion of the community or quasi-community property.

(k) From an order or decree made appealable by the provisions of the Probate Code.

SEC. 63.1. Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h) and (i), (2) a judgment of contempt which is made final and conclusive by Section 1222, or (3) a judgment on appeal from a municipal court or a justice court or a small claims court.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons

or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an order or decree made appealable by the provisions of the Probate Code.

SEC. 63.2. Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h), (i) and (j), (2) a judgment of contempt which is made final and conclusive by Section 1222, or (3) a judgment on appeal from a municipal court or a justice court or a small claims court or (4) a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition directed to a municipal court or a justice court or the judge or judges thereof which relates to a matter pending in the municipal or justice court. However, an appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition upon petition for an extraordinary writ.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an interlocutory judgment of dissolution of marriage, including the provisions thereof determining the separate, community, or quasi-community character of the parties' properties, regardless of whether the court in the judgment has reserved jurisdiction pursuant to Section 4800 of the Civil Code to value or divide all or a portion of the community or quasi-community property.

(k) From an order or decree made appealable by the provisions of the Probate Code.

SEC. 63.3. Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h) and (i), (2) a judgment of contempt which is made final and conclusive by Section 1222 (3) a judgment on appeal from a municipal court or a justice court or a small claims court or (4) a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition directed to a municipal court or a justice court or the judge or judges thereof which relates to a matter pending in the municipal or justice court. However, an appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition upon petition for an extraordinary writ.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining such right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an order or decree made appealable by the provisions of the Probate Code.

SEC. 63.4. Section 904.1 of the Code of Civil Procedure is

amended to read:

904.1. An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h) and (i), (2) a judgment of contempt which is made final and conclusive by Section 1222, (3) a judgment on appeal from a municipal court or a justice court or a small claims court or (4) a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition directed to a municipal court or a justice court or the judge or judges thereof which relates to a matter pending in the municipal or justice court. However, an appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition upon petition for an extraordinary writ.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an order or decree made appealable by the provisions of the Probate Code.

SEC. 64. Section 904.2 of the Code of Civil Procedure is amended to read:

904.2. An appeal may be taken from a municipal or justice court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, or (2) a judgment of contempt which is made final and conclusive by Section 1222.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order changing or refusing to change the place of trial.

(d) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(e) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(f) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(g) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(h) From an order appointing a receiver.

(i) From a judgment of the small claims court as provided in Chapter 5A (commencing with Section 116) of Title 1 of Part 1 of this code.

SEC. 65. 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 Sections 488.375 and 488.405 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. 66. 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 491.160 or 708.170 of the Code of Civil Procedure is fourteen dollars ($14).

SEC. 67. 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 491.150, 704.750, or 708.160 of the Code of Civil Procedure or Section 11625 of the Elections Code.

SEC. 68. 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 491.150, 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. 69. 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.

SEC. 70. (a) This act shall become operative only if Assembly Bill No. 707 of the 1981–82 Regular Session is chaptered and takes effect, repeals Title 9 (commencing with Section 681) of Part 2 of the Code of Civil Procedure, adds Title 9 (commencing with Section 680.010) to Part 2 of that code, and becomes operative July 1, 1983, in which case this act shall become operative on July 1, 1983, at the same time Assembly Bill No. 707 becomes operative.

(b) If this act becomes operative pursuant to the conditions set forth in subdivision (a) and Assembly Bill 3258 and Senate Bill 1287 are both chaptered and become effective January 1, 1983, and both of those bills and this bill amend Section 904.1 of the Code of Civil Procedure and this bill is chaptered after both of those bills, notwithstanding any provision in subdivision (a) to the contrary, Section 63.3 of this bill shall become operative on January 1, 1983, and shall be repealed on July 1, 1983.

SEC. 71. It is the intent of the Legislature, if this bill and Assembly Bill 2750 are both chaptered and become effective January 1, 1983, both bills amend Section 493.040 of the Code of Civil Procedure, and this bill is chaptered after Assembly Bill 2750, that Section 493.040 of the Code of Civil Procedure, as amended by Section 117 of Assembly Bill 2750 be further amended on the operative date of this act in the form set forth in Section 62.5 of this act to incorporate the changes in Section 493.040 proposed by this

bill. Therefore, Section 62.5 of this act shall become operative only if this bill and Assembly Bill 2750 are both chaptered and become effective January 1, 1983, both bills amend Section 493.040, and this bill is chaptered after Assembly Bill 2750, in which case Section 62.5 of this act shall become operative on the operative date of this act and Section 62 of this act shall not become operative.

SEC. 72. It is the intent of the Legislature that if this bill and Assembly Bill 3258 or Senate Bill 1287, or both, are chaptered and become effective on January 1, 1983, each of the bills amends Section 904.1 of the Code of Civil Procedure, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill 3258 are both chaptered and become effective January 1, 1983, both bills amend Section 904.1 of the Code of Civil Procedure, and Senate Bill 1287 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 3258, Section 904.1 of the Code of Civil Procedure, as amended by Section 20 of Assembly Bill 3258 shall be further amended on the operative date of this act in the form set forth in Section 63.1 of this act to incorporate the changes in Section 904.1 proposed by this bill. Therefore, Section 63.1 of this act shall become operative only if this bill and Assembly Bill 3258 are both chaptered and become effective January 1, 1983, both bills amend Section 904.1, and this bill is chaptered after Assembly Bill 3258 and Senate Bill 1287 is not chaptered or as chaptered does not amend that section, in which case Section 63.1 of this act shall become operative on the operative date of this act and Sections 63, 63.2, 63.3, and 63.4 of this act shall not become operative.

(2) If this bill and Senate Bill 1287 are both chaptered and become effective January 1, 1983, both bills amend Section 904.1 of the Code of Civil Procedure, but Assembly Bill 3258 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 1287, that Section 904.1 of the Code of Civil Procedure, as amended by Section 1 of Senate Bill 1287 be further amended on the operative date of this act in the form set forth in Section 63.2 of this act to incorporate the changes in Section 904.1 proposed by this bill. Therefore, Section 63.2 of this act shall become operative only if this bill and Senate Bill 1287 are both chaptered and become effective January 1, 1983, both bills amend Section 904.1, and this bill is chaptered after Senate Bill 1287 and Assembly Bill 3258 is not chaptered or as chaptered does not amend that section, in which case Section 63.2 of this act shall become operative on the operative date of this act and Sections 63, 63.1, 63.3, and 63.4 of this act shall not become operative.

(3) If this bill and Assembly Bill 3258 and Senate Bill 1287 are all chaptered and become effective January 1, 1983, all three bills amend Section 904.1 of the Code of Civil Procedure, and this bill is chaptered after Assembly Bill 3258 and Senate Bill 1287, the amendments proposed by all three bills shall be given effect. Therefore, if this bill

and Assembly Bill 3258 and Senate Bill 1287 are all chaptered and become effective January 1, 1983, all three bills amend Section 904.1 of the Code of Civil Procedure, and this bill is chaptered after Assembly Bill 3258 and Senate Bill 1287, Section 63.3 of this act shall become operative on January 1, 1983, and shall remain operative until July 1, 1983, and Section 63.4 of this act shall become operative on the operative date of this act and Sections 63, 63.1 and 63.2 shall not become operative.

SEC. 73. It is the intent of the Legislature that if this bill and Senate Bill 1790 are both chaptered and become effective January 1, 1983, and Senate Bill 1790 amends and renumbers Section 1032b of the Code of Civil Procedure as Section 1032.8 of the Code of Civil Procedure that Section 488.080 shall be added to the Code of Civil Procedure in the form set forth in Section 50.5. Therefore, Section 50.5 of this act shall become operative only if this bill and Senate Bill 1790 are both chaptered and become effective January 1, 1983, and Senate Bill 1790 amends and renumbers Section 1032b of the Code of Civil Procedure as Section 1032.8 of the Code of Civil Procedure, and Section 488.080, but only Section 488.080, as set forth as one of numerous provisions in Section 50, shall not become operative.

CHAPTER 1199

An act to amend Sections 1120 and 1215.1 of, and to add Section 1120.1a to, the Probate Code, relating to estates.

[Approved by Governor September 20, 1982. Filed with Secretary of State September 21, 1982.]

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

SECTION 1. Section 1120 of the Probate Code is amended to read:

1120. (a) A trust created by a will is not subject to the continuing jurisdiction of the superior court, unless the testator provides otherwise. Article 2 (commencing with Section 1138) shall be applicable to the trust to the extent that the will or article does not provide otherwise.

(b) When a trust created by a will continues after distribution, and the testator provides that the superior court shall not lose jurisdiction of the estate by final distribution, the superior court shall retain jurisdiction for the purpose of determining to whom the property shall pass and be delivered upon final or partial termination of the trust, to the extent that the determination is not concluded by the decree of distribution, of settling the accounts and passing upon the acts of the trustee, of authorizing the trustee to accept additions to the trust from sources other than the estate of the decedent, and for the other purposes hereinafter set forth. Any trustee appointed

by will, or appointed to execute a trust created by will, may, from time to time pending the execution of the trust, or at the termination thereof, render for settlement his or her accounts and report his or her acts as trustee, before the superior court in which the will was probated. For that purpose, the trustee shall present to the court a verified account and report, setting forth the accounts in detail, reporting his or her acts as trustee, and showing the condition of the trust estate. If the trustee dies or becomes incompetent, the account and report shall be presented by the trustee's executor, administrator, guardian, or conservator. In the event the trustee dies or becomes incompetent, and there is no executor, administrator, guardian, or conservator appointed for the trustee's estate, or in the event the trustee absconds, the court may compel the attorney for the deceased, incompetent, or absconding trustee to present the account and report to the extent that the attorney has information or records available for that purpose. The account and report of the attorney need not be verified. A fee shall be allowed to the attorney by the court for this service.

The trustee may also petition such court, from time to time, for instructions as to the administration of the trust for authority to accept additions to the trust from any source or sources other than the estate of the decedent, and for authority to exercise the powers authorized by Section 1120.2 of this code. The court may hear the petition and instruct or authorize the trustee by order rendered before or after any distribution to the trustee. When the trustee files the petition before any distribution of the estate to the trustee, the trustee shall, in addition to any other notice required, cause notice of the hearing to be mailed to the personal representative and shall further cause notice of the hearing to be mailed to all persons, including heirs, legatees, and devisees, at their last known address, to whom the court may order notice to be given, and shall, upon filing the petition and before giving notice thereof, secure from the court an order designating the persons in addition to the personal representative and the beneficiaries to whom the court requires that notice be given, or an order that notice to the personal representative and the beneficiaries is the only notice that shall be required.

When it appears from the allegations of the petition that the trustee seeks instructions to exercise a power not conferred upon the trustee or seeks authority to exercise the powers authorized by Section 1120.2, the petition shall set forth the particulars of and the necessity for the action sought to be taken.

The clerk shall set the hearing upon the account and report or petition for settlement or instructions. The trustee shall cause notice of the hearing to be given to the beneficiaries, including all persons in being who shall or may participate in the corpus or income of the trust, at their last known addresses, as provided in Section 1200.5, whether they have requested special notice or given notice of appearance or not. In addition to the above notice, when the petition

relates to the exercise of a power not conferred or seeks authority to exercise the powers authorized by Section 1120.2, a copy of the petition shall be attached to and mailed with copies of the notice which are mailed and the court or judge shall, at least 10 days before the return day, appoint a suitable person who shall appear and act as guardian ad litem of any person or persons of a designated class, who are not ascertained, or who are not in being, and who may become beneficiaries or may so participate in the trust. None of the provisions of Section 373 of the Code of Civil Procedure shall apply to the appointment.

(c) In addition to the provisions of subdivision (b), the personal representative of the decedent's estate, prior to final distribution, or the trustee, beneficiary, or remainderman, before or after final distribution, may petition the superior court to amend or conform the trust provisions of the decedent's will in the manner required to qualify the decedent's estate for the charitable estate tax deduction permitted by federal law. The petition may include a request to add to the trust provisions of the decedent's will the mandatory governing instrument requirements for a charitable remainder trust, as required by final regulations and rulings of the United States Internal Revenue Service. Notice of the petition shall be given to the Attorney General. No amendment or conformation may be ordered by the court without having first received written agreement to the proposed changes or disclaimer of interest from all interested parties in the trust. The execution of an agreement shall not be construed to be a contest under any provisions of the will prohibiting will contests. The existence of a spendthrift or similar protective provision in the trust shall not make this subdivision inapplicable to that trust.

SEC. 2. Section 1120.1a is added to the Probate Code, to read:

1120.1a. This section shall only apply to trusts described in subdivision (a) of Section 1120 which were created by a will executed before July 1, 1977.

(a) The trustee of such a trust shall give notice on or before July 1, 1983, or within six months after the initial funding of the trust, whichever occurs later, by registered or certified mail to each beneficiary, including all persons in being who shall or may participate in the corpus or income of the trust, at their last known addresses, containing the following information:

(1) A statement that as of January 1, 1983, Section 1120 of the Probate Code was amended to remove the necessity for mandatory court supervision of the trust.

(2) A statement that, unless the terms of trust limit or eliminate such authority, Section 1138.1 of the Probate Code gives the beneficiary and remainderman the right to petition a court to determine important matters relating to the administration of the trust, and a copy of the text of Section 1138.1.

(3) A statement that each income beneficiary, as defined in subdivision (1) of Section 730.01 of the Civil Code, and any other

beneficiary or remainderman upon written request to the trustee, is entitled to a statement of the income and principal receipts and disbursements of the trust at least annually.

(4) A statement that the beneficiary or remainderman is entitled to petition a court to settle the accounts and pass upon the acts of the trustee.

(5) The name and location of the superior court in the county in which it is appropriate to file a petition pursuant to Section 1138.1.

(6) When no trustee is a trust company, as defined in Section 107 of the Financial Code, a statement that a hearing will be held by the superior court named in paragraph (5) to obtain approval of the court and determine the conditions, if any, for the removal of the trust from the continuing jurisdiction of the court.

The trustee shall file with the court which previously had jurisdiction over the administration of the trust proof of service of the notice set forth in this subdivision on or before August 1, 1983, or within seven months after the initial funding of the trust, whichever occurs later.

(b) The trustee shall furnish, at least annually, and at termination of the trust, a statement of the income and principal receipts and disbursements that have occurred since the immediately preceding statement to each income beneficiary, as defined in subdivision (1) of Section 730.01 of the Civil Code, and to each other beneficiary or remainderman who has made written request therefor.

(c) Within 90 days after the end of each fiscal year of the trust, the trustee shall furnish to each of the persons described in subdivision (b) a summary setting forth the following:

(1) The cost of each trust asset.

(2) The present value of each asset as of the end of the fiscal year of the trust.

(3) The total present value of all assets as of the end of the current and immediately preceding fiscal year of the trust.

(4) The net income for the current and immediately preceding fiscal year of the trust.

(5) Trustee compensation for the current and immediately preceding fiscal year of the trust.

The summary shall also state that the recipient may petition a court pursuant to Section 1138.1 to obtain a court review, shall set forth a copy of the text of Section 1138.1, and shall give the name and location of the appropriate court in which to file a petition.

(d) Notwithstanding the provisions of subdivision (a) of Section 1120, with respect to a trust where no trustee is a trust company, as defined in Section 107 of the Financial Code, the trustee may only remove the trust from the continuing jurisdiction of the superior court with the approval of the court. To obtain such approval the trustee shall file a verified petition with the clerk setting forth the trust accounts in detail, reporting his or her acts as trustee, showing the condition of the trust estate, and attaching a true copy of the trust instrument. Thereupon the clerk shall set the petition for hearing by

the court. Notice of the hearing shall be given, along with the notice required by subdivision (a), at least 30 days before the hearing to all those persons who are entitled to receive the notice required by subdivision (a). At the hearing the court may receive testimony from any interested person and may grant or deny the petition, or require a bond as a condition of granting the petition, as the court in its discretion deems fit.

(e) When a beneficiary or remainderman is a minor, ward or conservatee, any notice, statement, or summary required to be sent to the beneficiary or remainderman by this section shall be sent to the parent, guardian, or conservator, as the case may be, of the beneficiary or remainderman. In addition, if the trustee, at the time the notice required by subdivision (a) is sent, has actual knowledge that a beneficiary or remainderman who is not a minor, ward, or conservatee is being assisted by another individual in the handling of his or her personal affairs, the trustee shall send the notice required by subdivision (a) to both that individual and the beneficiary or remainderman and, upon the written request of either of them, shall also send the statements and summaries required by subdivisions (b) and (c) to both of them.

(f) Where the trust is a charitable trust subject to Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code, upon the vesting of any charitable interest created by the trust the trustee shall thereafter furnish to the Attorney General the statements and summaries required by subdivisions (b) and (c) without the necessity of any written request. A charitable interest is deemed to be vested within the meaning of this subdivision as of the time when it is first ascertainable that income or corpus is, or in the future will be, paid to a charity or applied for a charitable purpose. Notwithstanding the provisions of Section 1138, the Attorney General may petition the court to settle the account and pass upon the acts of the trustee as provided in Section 1138.1.

SEC. 3. Section 1215.1 of the Probate Code is amended to read:

1215.1. Subject to other provisions of this article, it is a sufficient compliance with Sections 1120, 1120.1a, 1123.5, 1125, 1125.1, 1126, 1138.6, 1139.7, and 1139.15, insofar as they require notice to be given to the beneficiaries of, or persons interested in the trust, or to beneficiaries or remaindermen, including all persons in being who shall or may participate in the corpus or income of the trust, to give notice in the cases hereinafter provided, as follows:

(1) When an interest has been limited on any future contingency to persons who shall compose a certain class upon happening of a certain event without further limitation, notice shall be given to the persons in being who would constitute the class if such event had happened immediately before the commencement of the proceedings.

(2) When an interest has been limited to a living person, and the same interest, or a share therein, has been further limited upon the

happening of a future event to the surviving spouse or to persons who are, or may be, the distributees, heirs, issue or other kindred of such living person, notice shall be given to such living person.

(3) Except as otherwise provided in subdivision (2) when an interest has been limited upon the happening of any future event to a person, or a class of persons, or both, and the same interest, or a share of such interest, has been further limited upon the happening of an additional future event to another person, or a class of persons, or both, notice shall be given to the person or persons in being who would take the interest upon the happening of the first such event.

CHAPTER 1200

An act to amend Section 22305 of, and to add Sections 22225, 22225.5, 22225.6, and 22225.7 to, the Education Code, and to amend Sections 20205.2 and 31595.4 of, and to add Sections 20205.6, 20205.8, 31595.7, and 31595.8 to, the Government Code, relating to public pension and retirement plans.

[Approved by Governor September 20, 1982. Filed with Secretary of State September 21, 1982.]

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

SECTION 1. Section 22225 is added to the Education Code, to read:

22225. (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) through (d) of Section 17 of Article XVI of the California Constitution, 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 22305 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 .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 22305 may not exceed 60 percent of the assets of the fund determined on the basis of cost.

SEC. 2. Section 22225.5 is added to the Education Code, to read:

22225.5. (a) The board and its officers and employees shall discharge their duties with respect to the system solely in the interest of the members, retirants, and beneficiaries:

(1) For the exclusive purpose of:

(A) Providing benefits to members, retirants, and their beneficiaries; and

(B) Defraying reasonable expenses of administering the plan;

(2) 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;

(3) By diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) In accordance with the documents and instruments governing the system insofar as such documents and instruments are consistent with the provisions of this part.

(b) (1) Except as provided in paragraph (2), the assets of the system shall never inure to the benefit of any school district or other employing agency and shall be held for the exclusive purposes of providing benefits to members, retirants, and beneficiaries and defraying reasonable expenses of administering the system.

(2) In the case of a contribution which is made by a school district or other employing agency by a mistake of fact, paragraph (1) shall not prohibit the return of that contribution within one year after the system knows, or should know in the ordinary course of business, that the contribution was made by a mistake of fact.

(c) (1) The board and the officers and employees shall not cause the system to engage in a transaction if they know or should know that such transaction constitutes a direct or indirect:

(A) Sale or exchange, or leasing, of any property from the system to a member, retirant, or beneficiary for less than adequate consideration, or from a member, retirant, or beneficiary to the system for more than adequate consideration;

(B) Lending of money or other extension of credit from the system to a member, retirant, or beneficiary without the receipt of adequate security and a reasonable rate of interest, or from a member, retirant, or beneficiary with the provision of excessive security or an unreasonably high rate of interest;

(C) Furnishing of goods, services, or facilities from the system to a member, retirant, or beneficiary for less than adequate consideration, or from a member, retirant, or beneficiary to the system for more than adequate consideration;

(D) Transfer to, or use by or for the benefit of, a member, retirant, or beneficiary of any assets of the system for less than adequate consideration;

(E) Acquisition, on behalf of the system, of any school district or other employing agency security, real property, or loan.

(2) The board and its officers and employees shall not:

(A) Deal with the assets of the system in their own interest or for their own account,

(B) In their individual or in any other capacity act in any transaction involving the system on behalf of a party, or represent a party, whose interests are adverse to the interests of the system or the interests of its members, retirants, and beneficiaries, or

(C) Receive any consideration for their personal account from any party dealing with the system in connection with a transaction involving the assets of the system.

SEC. 3. Section 22225.6 is added to the Education Code, to read:

22225.6. Any member of the board or its officers who breaches any of the responsibilities, obligations, or duties imposed upon them by this part shall be personally liable to make good to the Teachers' Retirement Fund any losses to it resulting from each such breach, and to restore any profits which have been made through use of assets of the fund and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such board member or officer.

No board member or officer shall be liable with respect to a breach of fiduciary duty under this part if such breach was committed before the board member or officer became one or ceased to be one.

SEC. 4. Section 22225.7 is added to the Education Code, to read:

22225.7. In addition to any liability which the board member or officer may have under any other provisions of this part, the board member or officer shall be liable for a breach of fiduciary responsibility of another board member or officer with respect to the system in the following circumstances:

(a) If the board member or officer participates knowingly in, or knowingly undertakes to conceal an act or omission of such other board member or officer knowing such act or omission is a breach.

(b) If, by the board members' or officers' failure to comply with Section 22225.5 in the administration of its specific responsibilities which give rise to its status as a board member or officer has enabled another board member or officer to commit a breach.

(c) If the board member or officer has knowledge of a breach unless the board member or officer makes reasonable efforts under the circumstances to remedy the breach.

SEC. 5. Section 22305 of the Education Code is amended to read:

22305. In addition to such other investments as are authorized by this chapter, the board may in its discretion invest the assets of the retirement fund in an amount, determined on the basis of cost, not to exceed 10 percent of the assets in the first two years after the effective date of this section, not to exceed 15 percent during the third year after the effective date of this section, and not to exceed 60 percent thereafter, in common stock or shares, and not to exceed 2 percent of the assets in the first year after the effective date of this section, not to exceed 3 percent during the second year after the effective date of this section, and not to exceed 5 percent thereafter,

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 or a bank holding company whose subsidiary or subsidiaries is such a member, 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 or an insurance holding 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 there are no arrears of dividend payments on its preferred stock;

(d) Such corporation, or such corporation in combination with its predecessor 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, or such corporation in combination with its predecessor corporation, for the whole of such period have been equal to the amount of such dividends paid, and such corporation, or such corporation in combination with its predecessor corporation, has paid a cash dividend in each of the last three years earned on an aggregate basis;

(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. 6. Section 20205.2 of the Government Code is amended to read:

20205.2. In addition to such other investments as are authorized by this article, the 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 10 percent of the assets in the first two years after the effective date of this section, not to exceed 15 percent during the third year after the effective date of this section, and not to exceed 60 percent thereafter, in common stock or shares, and not to exceed 2 percent of the assets in the first year after the effective date of this section, not to exceed 3 percent during the second year after the effective date of this section, and not to exceed 5 percent thereafter, 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 a 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. 7. Section 20205.6 is added to the Government Code, to read:

20205.6. (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) through (d) of Section 17 of Article XVI of the California Constitution, 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 20205.2 may not exceed 60 percent of the assets of the fund determined on the basis of the cost of cost.

(b) The board may also invest not to exceed .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 20205.2 may not exceed 60 percent of the assets of the fund determined on the basis of cost.

SEC. 8. Section 20205.8 is added to the Government Code, to read:

20205.8. (a) The board and its officers and employees shall discharge their duties with respect to the system solely in the interest of the participants and beneficiaries:

(1) For the exclusive purpose of:

(A) Providing benefits to members, retired members, and their survivors and beneficiaries; and

(B) Defraying reasonable expenses of administering the plan;

(2) 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;

(3) By diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) In accordance with the documents and instruments governing the system insofar as such documents and instruments are consistent with the provisions of this part.

(b) (1) Except as provided in paragraph (2), the assets of the system shall never inure to the benefit of any employer and shall be held for the exclusive purposes of providing benefits to members, retired members, and their survivors and beneficiaries and defraying reasonable expenses of administering the system.

(2) In the case of a contribution which is made by an employer by a mistake of fact, paragraph (1) shall not prohibit the return of such contribution to the employer after the system knows, or should know in the ordinary course of business, that the contribution was made by a mistake of fact.

(c) (1) The board and its officers and employees shall not cause the system to engage in a transaction if they know or should know that such transaction constitutes a direct or indirect:

(A) Sale or exchange or leasing, of any property from the system to a member, retired member, or their survivor or beneficiary for less than adequate consideration, or from a member, retired member, or their survivor or beneficiary for more than adequate consideration;

(B) Lending of money or other extension of credit from the system to a member, retired member, or their survivor or beneficiary without the receipt of adequate security and a reasonable rate of interest, or from a member, retired member, or their survivor or beneficiary with the provision of excessive security or an unreasonably high rate of interest;

(C) Furnishing of goods, services, or facilities from the system to a member, retired member, or their survivor or beneficiary for less than adequate consideration, or from a member, retired member, or

their survivor or beneficiary for more than adequate consideration;

(D) Transfer to, or use by or for the benefit of, a member, retired member, or their survivor or beneficiary of any assets of the system for less than adequate consideration;

(E) Acquisition, on behalf of the system of any employer security, real property, or loan.

(2) The board and its officers and employees shall not:

(A) Deal with the assets of the system in their own interest or for their own account,

(B) In their individual or in any other capacity act in any transaction involving the plan on behalf of a party or represent a party whose interests are adverse to the interest of the system or the interests of its members, retired members, or their survivors or beneficiaries, or

(C) Receive any consideration for their personal account from any party dealing with the system in connection with a transaction involving the assets of the system.

SEC. 9. Section 31595.4 of the Government Code is amended to read:

31595.4. Notwithstanding the provisions of Section 31595, in addition to such other investments as are authorized by this article, the 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 10 percent of the assets in the first two years after the effective date of this section, not to exceed 15 percent during the third year after the effective date of this section, and not to exceed 60 percent thereafter, in common stock or shares, and not to exceed 2 percent of the assets in the first year after the effective date of this section, not to exceed 3 percent during the second year after the effective date of this section, and not to exceed 5 percent thereafter, 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. 10. Section 31595.7 is added to the Government Code, to read:

31595.7. (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) through (d) of Section 17 of Article XVI of the California Constitution, 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 31595.4 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 .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 31595.4 may not exceed 60 percent of the assets of the fund determined on the basis of cost.

SEC. 11. Section 31595.8 is added to the Government Code, to read:

31595.8. (a) The board and its officers and employees shall discharge their duties with respect to the system solely in the interest of the participants and beneficiaries:

(1) For the exclusive purpose of:

(A) Providing benefits to members, retired members, and their survivors and beneficiaries; and

(B) Defraying reasonable expenses of administering the plan;

(2) 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;

(3) By diversifying the investments of the system so as to

minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) In accordance with the documents and instruments governing the system insofar as such documents and instruments are consistent with the provisions of this part.

(b) (1) Except as provided in paragraph (2), the assets of the system shall never inure to the benefit of any employer and shall be held for the exclusive purposes of providing benefits to members, retired members, and their survivors and beneficiaries and defraying reasonable expenses of administering the system.

(2) In the case of a contribution which is made by an employer by a mistake of fact, paragraph (1) shall not prohibit the return of such contribution to the employer within one year after the system knows, or should know in the ordinary course of business, that the contribution was made by a mistake of fact.

(c) (1) The board and its officers and employees shall not cause the system to engage in a transaction if they know or should know that such transaction constitutes a direct or indirect:

(A) Sale or exchange or leasing, of any property from the system to a member, retired member or their survivor or beneficiary for less than adequate consideration, of from a member, retired member, or their survivor or beneficiary for more than adequate consideration;

(B) Lending of money or other extension of credit from the system to a member, retired member, or their survivor or beneficiary without the receipt of adequate security and a reasonable rate of interest, or from a member, retired member, or their survivor or beneficiary with the provision of excessive security or an unreasonably high rate of interest;

(C) Furnishing of goods, services, or facilities from the system to a member, retired member, or their survivor or beneficiary for less than adequate consideration, or from a member, retired member, or their survivor or beneficiary for more than adequate consideration;

(D) Transfer to, or use by or for the benefit of, a member, retired member, or their survivor or beneficiary of any assets of the system for less than adequate consideration;

(E) Acquisition, on behalf of the system of any employer security, real property, or loan.

(2) The board and its officers and employees shall not:

(A) Deal with the assets of the system in their own interest or for their own account,

(B) In their individual or in any other capacity act in any transaction involving the plan on behalf of a party or represent a party whose interests are adverse to the interests of the system or the interests of its members, retired members, or their survivors or beneficiaries, or

(C) Receive any consideration for their personal account from any party dealing with the system in connection with a transaction involving the assets of the system.

SEC. 12. Sections 1, 5, 6, 7, 8, 9, 10, 11, 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 1201

An act to amend Sections 1981, 2551.3, 33590, 33592, 33595, 35000, 44903.7, 56155.5, 56156.5, 56161, 56162, 56169, 56170, 56200, 56221, 56320, 56321, 56322, 56329, 56341, 56343, 56345, 56362, 56363, 56365, 56368, 56380, 56504, 56505, 56507, 56712, 56713, 56736, 56737, 56760, 56828, 56851, 56852, 56853, 56854, 56856, 56859, and 56863 of, to amend and repeal Section 56857 of, to add Sections 56363.3, 56363.5, 56773.5, 56852.5, 56857.5, 56858.5, 56858.7, 56864, and 56865 to, to add Chapter 6 (commencing with Section 8900) to Part 6 and Article 2 (commencing with Section 56430) to Chapter 4.4 of Part 30 of, to add an article heading to Chapter 4.4 of Part 30 of, to add and repeal Article 3 (commencing with Section 56435) to Chapter 4.4 of Part 30 of, and to repeal and add Sections 56342, 56367, 56775, 56780, 56858, and 56860 of, the Education Code, to amend Section 1597.63 of the Health and Safety Code, to amend and supplement the Budget Act of 1982 (Ch. 326, Stats. 1982) by amending Item 6100-161-001, to amend Section 21.42 of the Budget Act of 1982 (Ch. 326, Stats. 1982), and to amend Section 16 of Chapter 209 of the Statutes of 1982, relating to public welfare, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 1981 of the Education Code is amended to read:

1981. The county board of education may enroll in community schools:

(a) Pupils who have been expelled from a school while attending either continuing classes, opportunity classes, or alternative classes.

(b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board.

(c) Pupils who are court wards or on probation from juvenile halls or camps who are not in attendance in any school and who are referred by any court.

SEC. 2. Section 2551.3 of the Education Code is amended to read:

2551.3. (a) For the 1979-80 fiscal year and each fiscal year

thereafter, the Superintendent of Public Instruction shall make the following computations to determine the state aid to be allocated for pregnant minors programs operated by county superintendents of schools:

(1) The Superintendent of Public Instruction shall determine expenditures made by the county office for the 1979-80 fiscal year and shall divide such amount by the average daily attendance in such program for the 1979-80 fiscal year.

(2) For the 1980–81 fiscal year, the quotient computed pursuant to paragraph (1) shall be increased by 9 percent, and shall be cumulatively increased in each fiscal year thereafter by the average inflation allowance applied to unified school district revenue limits.

(3) The amount computed pursuant to paragraph (2) shall be multiplied by the average daily attendance in pregnant minors programs for the then current fiscal year.

(b) The product computed pursuant to paragraph (3) of subdivision (a) shall be added to the sum computed pursuant to subdivision (a) of Section 2558.

(c) County superintendents who did not operate pregnant minors programs in the 1979-80 fiscal year may apply to the Superintendent of Public Instruction for approval to operate such programs. The revenue limit adjustment for the program shall be the statewide average amount for the then current fiscal year as computed pursuant to subdivision (a) of former Section 42241.5.

(d) Funds received for average daily attendance in pregnant minors programs shall be expended on such programs.

SEC. 3. Chapter 6 (commencing with Section 8900) is added to Part 6 of the Education Code, to read:

CHAPTER 6. PREGNANT MINORS PROGRAMS

8900. The Superintendent of Public Instruction shall adopt rules and regulations for the effective administration of pregnant minors programs operated by school districts and county superintendents of schools for the purposes of Section 2551.3 and subdivision (d) of Section 42241.

8901. County superintendents who operated pregnant minors programs in the 1979–80 fiscal year shall continue to operate pregnant minors programs in the 1980–81 fiscal year and each fiscal year thereafter and school districts which increased their revenue limit in the 1981–82 fiscal year pursuant to subdivision (d) of Section 42241 shall continue to operate pregnant minors programs in subsequent fiscal years, unless the program is transferred to another local education agency, or unless the county superintendent or district superintendent demonstrates that programs and services for pregnant minors, such as continuation school, home instruction, or independent instruction, are available from other local education agencies in the county, pursuant to rules and regulations adopted by the Superintendent of Public Instruction.

SEC. 4. Section 33590 of the Education Code is amended to read:

33590. (a) There is in the state government the Advisory Commission on Special Education consisting of:

(1) A Member of the Assembly appointed by the Speaker of the Assembly.

(2) A Member of the Senate appointed by the Senate Committee on Rules.

(3) Three public members appointed by the Speaker of the Assembly, one of whom shall be a parent of a pupil in either a public or private school who has received or is currently receiving special education services due to a handicapping condition.

(4) Three public members appointed by the Senate Committee on Rules, one of whom shall be a parent of a pupil in either a public or private school who has received or is currently receiving special education services due to a handicapping condition.

(5) Four public members appointed by the Governor, one of whom shall be a parent of a pupil in either a public or private school who has received or is currently receiving special education services due to a handicapping condition.

(6) Five public members appointed by the State Board of Education, upon the recommendation of the Superintendent of Public Instruction or the members of the State Board of Education, one of whom shall be a parent of a pupil in either a public or private school who has received or is currently receiving special education services due to a handicapping condition.

(b) The commission membership shall be selected to ensure a representative group knowledgeable about the wide variety of handicapping conditions which require special programs in order to achieve the goal of providing an appropriate education to all eligible pupils.

(c) On January 1, 1984, the appointing powers listed in subdivision (a) shall terminate the appointment of the public members appointed before that date and shall make appointments pursuant to subdivisions (a), (b), and (d).

(d) The term of each public member shall be for four years. However, the members appointed on January 1, 1984, shall be appointed on the following basis:

(1) Of the public members appointed by the Speaker of the Assembly, two shall hold office for four years, one shall hold office for two years.

(2) Of the public members appointed by the Senate Committee on Rules, two shall hold office for four years, one shall hold office for two years.

(3) Of the public members appointed by the Governor, two shall hold office for four years, two shall hold office for two years.

(4) Of the public members appointed by the State Board of Education, three shall hold office for four years, two shall hold office for two years.

(e) In no event shall any public member serve more than two

terms.

SEC. 5. Section 33592 of the Education Code is amended to read:

33592. The members of the commission shall serve without compensation, except they shall receive their actual and necessary expenses incurred in the performance of their duties and responsibilities, including traveling expenses.

Reimbursement of other expenses, which are determined to be necessary for the commission to function, but do not exceed the commission's budget, may be approved by the commission and the executive secretary to the commission.

SEC. 6. Section 33595 of the Education Code is amended to read:

33595. (a) The commission shall study and provide assistance and advice to the State Board of Education in new or continuing areas of research, program development, and evaluation in special education.

(b) The commission shall report to the State Board of Education not less than once a year on the following:

(1) Activities necessary to be undertaken regarding special education for individuals with exceptional needs which are enumerated in Section 56100.

(2) The priorities and procedures utilized in the distribution of federal and state funds.

(3) The unmet educational needs of individuals with exceptional needs within the state.

(4) Recommendations relating to providing better educational services to individuals with exceptional needs including, but not limited to, the development, review, and revision of the definition of "appropriate," as that term is used in the phrase "free appropriate public education," as used in Public Law 94-142.

(c) Commission recommendations or requests shall be transmitted by letter from the commission chairperson to the president of the State Board of Education. Each communication shall be placed on the agenda of the next forthcoming state board meeting in accordance with the announced annual state board agenda cutoff dates. Following the state board meeting, the commission shall be notified by the state board as to what action has been taken on each recommendation or request.

SEC. 6.5. Section 35000 of the Education Code is amended to read:

35000. The first governing board of any new school district shall, at the first meeting of the board or as soon as practicable thereafter, name the district.

The name of an elementary district shall be in the form of "_____ District (using the name of the district), of _____ County" (using the name of the county in which the district is situated). The name of an elementary district shall not include a number.

The name of a unified school district shall be in the form of "_____ (using the name of the district) Unified School District."

A number shall not be used as a part of the designation of any unified school district.

Any union high school district or joint union high school district shall be so designated as part of its name.

SEC. 7. Section 44903.7 of the Education Code is amended to read:

44903.7. When a local plan for the education of individuals with exceptional needs is developed pursuant to Article 6 (commencing with Section 56170) of Chapter 2 of Part 30, the following provisions shall apply:

(a) Whenever any certificated employee, who is performing service for one employer, is terminated, reassigned, or transferred, or becomes an employee of another employer because of the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, the employee shall be entitled to the following:

(1) The employee shall retain the seniority date of his or her employment with the district or county office from which he or she was terminated, reassigned, or transferred, in accordance with Section 44847. In the case of termination, permanent employees shall retain the rights specified in Section 44956 or, in the case of probationary employees, Sections 44957 and 44958, with the district or county office initiating the termination pursuant to Section 44955.

(2) The reassignment, transfer, or new employment caused by the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, shall not affect the seniority or classification of certificated employees already attained in any school district which undergoes such reorganization. These employees shall have the same status with respect to their seniority or classification, with the new employer, including time served as probationary employees. The total number of years served as a certificated employee with the former district or county office shall be credited, year for year, for placement on the salary schedule of the new district or county office.

(b) All certificated employees providing service to individuals with exceptional needs shall be employed by a county office of education or an individual school district. Special education service regions or responsible local agencies resulting from local plans for the education of individuals with exceptional needs formulated in accordance with Part 30 shall not be considered employers of certificated personnel for purposes of this section.

(c) Subsequent to the reassignment or transfer of any certificated employee as a result of the reorganization of special education programs, pursuant to Chapter 797 of the Statutes of 1980, that employee shall have priority, except as provided in subdivision (d), in being informed of and in filling certificated positions in special education in the areas in which the employee is certificated within the district or county office by which the certificated employee is then currently employed. This priority shall expire 24 months after

the date of reassignment or transfer, and may be waived by the employee during that time period.

(d) A certificated employee who has served as a special education teacher in a district or county office and has been terminated from his or her employment by that district or county office pursuant to Section 44955, shall have first priority in being informed of and in filling vacant certificated positions in special education, for which the employee is certificated and was employed, in any other county office or school district which provides the same type of special education programs and services for the pupils previously served by the terminated employee. For a period of 39 months for permanent employees and 24 months for probationary employees from the date of termination, the employee shall have the first priority right to reappointment as provided in this section, if the employee has not attained the age of 65 years before reappointment.

SEC. 8. Section 56155.5 of the Education Code is amended to read:

56155.5. (a) As used in this article, "licensed children's institution" means a residential facility which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. "Licensed children's institution" in addition, includes a large family home and a group home as defined by subdivision (a) of Section 80005 of Title 22 of the California Administrative Code.

(b) As used in this article, "foster family home" means a family residence which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide 24-hour nonmedical care and supervision for not more than six foster children, including, but not limited to, individuals with exceptional needs. "Foster family home," in addition, includes a small family home as defined by subdivision (a) of Section 80005 of Title 22 of the California Administrative Code.

SEC. 9. Section 56156.5 of the Education Code is amended to read:

56156.5. (a) Each district, special education services region, or county office shall be responsible for providing appropriate education to individuals with exceptional needs residing in licensed children's institutions and foster family homes located in the geographical area covered by the local plan.

(b) In multidistrict and district and county office local plan areas, local written agreements shall be developed, pursuant to subdivision (f) of Section 56220, to identify the public education entities that will provide the special education services.

(c) If there is no local agreement, special education services for individuals with exceptional needs residing in licensed children's institutions shall be the responsibility of the county office in the county in which the institution is located, if the county office is part of the special education local plan area, and special education

services for individuals with exceptional needs residing in foster family homes shall be the responsibility of the district in which the foster family home is located. If a county office is not a part of the special education local plan area, special education services for individuals with exceptional needs residing in licensed children's institutions, pursuant to this subdivision, shall be the responsibility of the responsible local agency or other administrative entity of the special education local plan area. This program responsibility shall continue until the time local written agreements are developed pursuant to subdivision (f) of Section 56220.

SEC. 9.5. Section 56161 of the Education Code is amended to read:

56161. Individuals with exceptional needs served under this article shall not be subject to the service proportions prescribed by Article 7 (commencing with Section 56760) of Chapter 7 and the deficit provisions prescribed by Article 10 (commencing with Section 56790) of Chapter 7. However, those pupils and appropriate instructional personnel units required to provide educational services to those pupils, shall be included in the computations prescribed in Section 56728.5.

SEC. 10. Section 56162 of the Education Code is amended to read:

56162. Individuals with exceptional needs placed in a licensed children's institution or foster family home by a court, regional center for the developmentally disabled, or public agency, other than an educational agency, prior to the effective date of this article, shall be considered residents of the geographical area of the local plan in which the licensed children's institution or foster family home is located, for special education and related services pursuant to the provisions of this article.

SEC. 11. Section 56169 of the Education Code is amended to read:

56169. (a) The superintendent shall apportion funds pursuant to Chapter 7 (commencing with Section 56700) to the district or county operating programs under this article. Classes operated pursuant to this article shall not be subject to the deficit provisions prescribed by Article 10 (commencing with Section 56790) of Chapter 7.

(b) Except where the hospital or medical facility also operates a nonsectarian, nonpublic school, the revenue limit of the district in which the hospital or medical facility is located shall be used for computational purposes.

SEC. 12. Section 56170 of the Education Code is amended to read:

56170. The governing board of a school district shall elect to do one of the following:

(a) If of sufficient size and scope, under standards adopted by the board, submit to the superintendent, in accordance with Section 56200, a local plan for the education of all individuals with exceptional needs residing in the district.

(b) In conjunction with one or more districts submit to the superintendent, in accordance with Section 56200, a local plan for the education of individuals with exceptional needs residing in such

districts. Such plan shall, through joint powers agreements or other contractual agreements, include all the following:

(1) Provision of a governance structure and any necessary administrative support to implement the plan.

(2) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing within the special education services region.

(3) Designation of a responsible local agency or alternative administrative entity to perform such functions as the receipt and distribution of regionalized services funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of the services required by the plan.

(c) Join with the county office, to submit to the superintendent a plan in accordance with Section 56200 to assure access to special education and services for all individuals with exceptional needs residing in the geographic area served by the plan. The county office shall coordinate the implementation of such plan, unless otherwise specified in the plan. Such plan shall, through contractual agreements, include all of the following:

(1) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing within the geographical area served by the plan.

(2) Designation of the county office, of a responsible local agency, or of any other administrative entity to perform such functions as the receipt and distribution of regionalized services funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of these services required by the plan.

(d) The service area covered by the local plan developed under subdivision (a), (b), or (c) shall be known as the special education local plan area.

SEC. 13. Section 56200 of the Education Code is amended to read:

56200. Each local plan submitted to the superintendent under this part shall contain all the following:

(a) Compliance assurances, including general compliance with Public Law 94-142, Section 504 of Public Law 93-112, and the provisions of this part.

(b) Description of services to be provided by each district and county office. Such description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(c) (1) Description of the governance and administration of the plan.

(2) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56170, shall specify the responsibilities of each

participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(d) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into such agreements pursuant to subdivision (b) or (c) of Section 56170.

(e) An annual budget plan to allocate instructional personnel service units, support services, and transportation services directly to entities operating such services and to allocate regionalized services funds to the county office, responsible local agency, or other alternative administrative structure. The annual budget plan shall be adopted at a public hearing held by the district, special education services region, or county office, as appropriate. Notice of this hearing shall be posted in each school in the services region at least 15 days prior to the hearing. The annual budget plan may be revised during the fiscal year, and such revisions may be submitted to the superintendent as amendments to the allocations set forth in the plan. However, such revisions shall, prior to submission to the superintendent, be approved according to the policymaking process, established pursuant to paragraph (2) of subdivision (c).

(f) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct such review prior to submission of the plan to the superintendent.

(g) Description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300).

(h) A description of the process being utilized to meet the requirements of Section 56303. This subdivision applies only to plans which are submitted in the 1983–84 fiscal year.

SEC. 14. Section 56221 of the Education Code is amended to read:

56221. (a) Each entity providing special education under this part shall adopt policies for the programs and services it operates, consistent with agreements adopted pursuant to subdivision (b) or (c) of Section 56170, or Section 56220. The policies need not be submitted to the superintendent.

(b) Such policies shall include, but not be limited to, all of the following:

(1) Nonpublic, nonsectarian services, including those provided pursuant to Sections 56365 and 56366.

(2) Review, at a regular education or special education teacher's request, of the assignment of an individual with exceptional needs to his or her class and a mandatory meeting of the individualized education program team if the review indicates a change in the pupil's placement, instruction, related services, or any combination thereof. The procedures shall indicate which personnel are responsible for such reviews and a timetable for completion of the

review.

(3) Procedural safeguards pursuant to Chapter 5 (commencing with Section 56500).

(4) Resource specialists pursuant to Section 56362.

(5) Transportation, where appropriate, which describes how special education transportation is coordinated with regular home-to-school transportation. The policy shall set forth criteria for meeting the transportation needs of special education pupils.

(c) The policies may include, but are not limited to, provisions for involvement of district and county governing board members in any due process hearing procedure activities conducted pursuant to, and consistent with, state and federal law.

SEC. 15. Section 56320 of the Education Code is amended to read:

56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted in accordance with requirements including, but not limited to, all the following:

(a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.

(b) Tests and other assessment materials meet all the following requirements:

(1) Are provided and administered in the pupil's primary language or other mode of communication, unless the assessment plan indicates reasons why such provision and administration are not clearly feasible.

(2) Have been validated for the specific purpose for which they are used.

(3) Are administered by trained personnel in conformance with the instructions provided by the producer of such tests and other assessment materials.

(c) Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

(d) Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.

(e) No single procedure is used as the sole criterion for determining an appropriate educational program for an individual with exceptional needs.

(f) The pupil is assessed in all areas related to the suspected disability including, where appropriate, health and development, vision, hearing, motor abilities, language function, general ability, academic performance, career and vocational abilities and interests,

and social and emotional status. A developmental history is obtained, when appropriate.

SEC. 15.5. Section 56320 of the Education Code is amended to read:

56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted, by qualified persons, in accordance with requirements including, but not limited to, all the following:

(a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.

(b) Tests and other assessment materials meet all the following requirements:

(1) Are provided and administered in the pupil's primary language or other mode of communication, unless the assessment plan indicates reasons why such provision and administration are not clearly feasible.

(2) Have been validated for the specific purpose for which they are used.

(3) Are administered by trained personnel in conformance with the instructions provided by the producer of such tests and other assessment materials, except that individually administered tests of intellectual or emotional functioning shall be administered by a psychometrist or credentialed school psychologist where available. It is not the intent of the Legislature to require that new personnel be hired for this purpose.

(c) Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

(d) Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.

(e) No single procedure is used as the sole criterion for determining an appropriate educational program for an individual with exceptional needs.

(f) The pupil is assessed in all areas related to the suspected disability including, where appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general ability, academic performance, self-help, orientation and mobility skills, communication skills, career and vocational abilities and interests, and social and emotional status. A developmental history is obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided in

accordance with guidelines established pursuant to Section 56136.

(g) The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment consistent with guidelines established pursuant to Section 56136.

SEC. 16. Section 56321 of the Education Code is amended to read:

56321. (a) Whenever an assessment for the development or revision of the individualized education program is to be conducted, the parent of the pupil shall be given, in writing, a proposed assessment plan within 15 days of the referral for assessment. A copy of the notice of parent rights shall be attached to the assessment plan.

(b) The proposed assessment plan given to parents shall meet all the following requirements:

(1) Be in language easily understood by the general public.

(2) Be provided in the primary language of the parent or other mode of communication used by the parent, unless to do so is clearly not feasible.

(3) Explain the types of assessments to be conducted.

(4) State that no individualized education program will result from the assessment without the consent of the parent.

(c) No assessment shall be conducted unless the written consent of the parent is obtained prior to the assessment except pursuant to subdivision (e) of Section 56506. The parent shall have at least 15 days from the receipt of the proposed assessment plan to arrive at a decision. Assessment may begin immediately upon receipt of such consent.

SEC. 17. Section 56322 of the Education Code is amended to read:

56322. The assessment shall be conducted by persons competent to perform the assessment, as determined by the school district, county office, or special education services region.

SEC. 18. Section 56329 of the Education Code is amended to read:

56329. The parent of the pupil shall be provided with written notice that he or she may obtain, upon request, a copy of the findings of the assessment or assessments conducted pursuant to Section 56321. This notice may be provided as part of the assessment plan given to parents pursuant to Section 56321. The notice shall include all the following:

(a) An individualized education program team conference, including the parent and his or her representatives, shall be scheduled, pursuant to Section 56341, to discuss the assessment, the educational recommendations, and the reasons for these recommendations.

(b) A parent has the right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, as defined by regulations of the board, if the parent disagrees with an assessment obtained by the public education agency.

However, the public education agency may initiate a due process hearing pursuant to Chapter 5 (commencing with Section 56500) to show that its assessment is appropriate. If the final decision resulting from the due process hearing is that the assessment is appropriate, the parent still has the right for an independent educational assessment, but not at public expense.

If the parent obtains an independent educational assessment at private expense, the results of the assessment shall be considered by the public education agency with respect to the provision of free, appropriate public education to the child, and may be presented as evidence at a due process hearing pursuant to Chapter 5 (commencing with Section 56500) regarding such child.

SEC. 19. Section 56341 of the Education Code is amended to read:

56341. (a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs, shall be conducted by an individualized education program team.

(b) The individualized education program team shall include all of the following:

(1) A representative other than the pupil's teacher designated by administration who may be an administrator, program specialist, or other specialist who is knowledgeable of program options appropriate for the pupil and who is qualified to provide, or supervise the provision of, special education.

(2) The pupil's present teacher. If the pupil does not presently have a teacher, this representative shall be the teacher with the most recent and complete knowledge of the pupil who has also observed the pupil's educational performance in an appropriate setting. If no such teacher is available, this representative shall be a regular classroom teacher referring the pupil, or a special education teacher qualified to teach a pupil of his or her age.

(3) One or both of the pupil's parents, a representative selected by the parent, or both, pursuant to Public Law 94-142.

(c) When appropriate, the team shall also include:

(1) The individual with exceptional needs.

(2) Other individuals, at the discretion of the parent, district, special education services region, or county office who possess expertise or knowledge necessary for the development of the individualized education program.

(d) If the team is developing, reviewing, or revising the individualized education program of an individual with exceptional needs who has been assessed for the purpose of that individualized education program, the district, special education services region, or county office, shall ensure that a person is present at the meeting who has conducted an assessment of the pupil or who is knowledgeable about the assessment procedures used to assess the pupil and is familiar with the results of the assessment. Such person shall be qualified to interpret the results if the results or recommendations, based on such assessment, are significant to the

development of the pupil's individualized education program and subsequent placement.

(e) For pupils with suspected learning disabilities, at least one member of the individualized education program team, other than the pupil's regular teacher, shall be a person who has observed the pupil's educational performance in an appropriate setting. If the child is younger than four years and nine months or is not enrolled in a school, a team member shall observe the child in an environment appropriate for a child of that age.

(f) The parent shall have the right to present information to the individualized education program team in person or through a representative and the right to participate in meetings relating to eligibility for special education and related services, recommendations, and program planning.

(g) It is the intent of the Legislature that the individualized education program team meetings be nonadversarial and convened solely for the purpose of making educational decisions for the good of the individual with exceptional needs. However, if the public education agency uses an attorney during any part of the individualized education program meeting, that use shall be governed by the provisions of Section 56507.

SEC. 20. Section 56342 of the Education Code is repealed.

SEC. 21. Section 56342 is added to the Education Code, to read:

56342. The individualized education program team shall review the assessment results, determine eligibility, determine the content of the individualized education program, consider local transportation policies and criteria developed pursuant to paragraph (5) of subdivision (b) of Section 56221, and make program placement recommendations.

Prior to recommending a new placement in a nonpublic, nonsectarian school, the individualized education program team shall submit the proposed recommendation to the local governing board of the district, special education services region, or county office for its review and recommendation regarding the cost of such placement.

The local governing board shall complete its review and make its recommendations, if any, at the next regular meeting of the board. A parent or representative shall have the right to appear before the board and submit written and oral evidence regarding the need for nonpublic school placement for his or her child. Any recommendations of the board shall be considered at an individualized education program team meeting, to be held within five days of the board's review.

Notwithstanding Section 56344, the time limit for the development of an individualized education program shall be waived for a period not to exceed 15 additional days to permit the local governing board to meet its review and recommendation requirements.

SEC. 22. Section 56343 of the Education Code is amended to read:

56343. An individualized education program team shall meet

whenever any of the following occur:

(a) A pupil has received a formal assessment.

(b) The pupil demonstrates a lack of anticipated progress.

(c) The parent or teacher requests a meeting to develop, review, or revise the individualized education program; provided that such a request by a parent shall not be granted more than twice in any one semester.

(d) At least annually, to review the pupil's progress, the individualized education program, and the appropriateness of placement, and to make any necessary revisions. The individualized education program team conducting the annual review shall consist of those persons specified in subdivision (b) of Section 56341. Other individuals may participate in the annual review if they possess expertise or knowledge essential for the review.

SEC. 23. Section 56345 of the Education Code is amended to read:

56345. (a) The individualized education program is a written statement determined in a meeting of the individualized education program team and shall include, but not be limited to, all of the following:

(1) The present levels of the pupil's educational performance.

(2) The annual goals, including short-term instructional objectives.

(3) The specific special educational instruction and related services required by the pupil.

(4) The extent to which the pupil will be able to participate in regular educational programs.

(5) The projected date for initiation and the anticipated duration of such programs and services.

(6) Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

(b) When appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) For pupils in kindergarten and grades 1 to 6, inclusive, or pupils of a comparable chronological age, who are unable to successfully complete the regularly prescribed course of study as determined by the individualized education program team, academic instruction which includes an application to daily living skills and occupational awareness.

(2) For secondary grade level pupils, specially designed vocational education and career development, with an emphasis on vocational training and preparation for remunerative employment, additional vocational training, or additional career development opportunities, as appropriate.

(3) For secondary grade level pupils, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation, in accordance with Section 51225.

(4) For individuals whose primary language is other than English,

linguistically appropriate goals, objectives, programs and services.

(5) Extended school year services when needed, as determined by the individualized education program team.

(6) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or center, or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday.

(c) It is the intent of the Legislature in requiring individualized education programs that the district, special education services region, or county office is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the pupil's individualized education program.

(d) Pursuant to subdivision (d) of Section 51215, a pupil's individualized education program shall also include the determination of the individualized education program team as to whether differential proficiency standards shall be developed for the pupil. If differential proficiency standards are to be developed, the individualized education program shall include these standards.

SEC. 23.5. Section 56345 of the Education Code is amended to read:

56345. (a) The individualized education program is a written statement determined in a meeting of the individualized education program team and shall include, but not be limited to, all of the following:

(1) The present levels of the pupil's educational performance.

(2) The annual goals, including short-term instructional objectives.

(3) The specific special educational instruction and related services required by the pupil.

(4) The extent to which the pupil will be able to participate in regular educational programs.

(5) The projected date for initiation and the anticipated duration of such programs and services.

(6) Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

(b) When appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) Prevocational career education for pupils in kindergarten and grades one to six, inclusive, or pupils of comparable chronological age.

(2) Vocational education, career education or work experience education, or any combination thereof, in preparation for remunerative employment, including independent living skill training for pupils in grades seven to 12, inclusive, or comparable chronological age, who require differential proficiency standards pursuant to Section 51215.

(3) For pupils in grades seven to 12, inclusive, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation in accordance with Section 51215.

(4) For individuals whose primary language is other than English, linguistically appropriate goals, objectives, programs and services.

(5) Extended school year services when needed, as determined by the individualized education program team.

(6) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or center, or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday.

(7) For pupils with low-incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136.

(c) It is the intent of the Legislature in requiring individualized education programs that the district, special education services region, or county office is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the pupil's individualized education program.

(d) Pursuant to subdivision (d) of Section 51215, a pupil's individualized education program shall also include the determination of the individualized education program team as to whether differential proficiency standards shall be developed for the pupil. If differential proficiency standards are to be developed, the individualized education program shall include these standards.

SEC. 24. Section 56362 of the Education Code is amended to read:

56362. (a) The resource specialist program shall provide, but not be limited to, all of the following:

(1) Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a schoolday.

(2) Provision of information and assistance to individuals with exceptional needs and their parents.

(3) Provision of consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(4) Coordination of special education services with the regular school programs for each individual with exceptional needs enrolled in the resource specialist program.

(5) Monitoring of pupil progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of pupils who do not demonstrate appropriate progress to the individualized education program team.

(6) Emphasis at the secondary school level on academic

achievement, career and vocational development, and preparation for adult life.

(b) The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher, or who has a clinical services credential with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission for Teacher Preparation and Licensing, and who has demonstrated the competencies for a resource specialist, as established by the Commission for Teacher Preparation and Licensing.

(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56221 and in accordance with regulations established by the board. No resource specialist shall have a caseload which exceeds 28 pupils.

(d) Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.

(e) Resource specialists shall not enroll a pupil for a majority of a schoolday without prior approval by the superintendent.

(f) At least eighty percent of the resource specialists within a local plan shall be provided with an instructional aide.

SEC. 25. Section 56363 of the Education Code is amended to read:

56363. (a) Designated instruction and services as specified in the individualized education program shall be available when the instruction and services are necessary for the pupil to benefit educationally from his or her instructional program. The instruction and services shall be provided by the regular class teacher, the special class teacher, or the resource specialist if the teacher or specialist is competent to provide such instruction and services and if the provision of such instruction and services by the teacher or specialist is feasible. If not, the appropriate designated instruction and services specialist shall provide such instruction and services. Designated instruction and services shall meet standards adopted by the board.

(b) Notwithstanding any other provision of law, districts, county offices, and special education local plan areas shall not be required to provide related services in excess of those required pursuant to federal law or proposed regulations published in the Federal Register in August of 1982.

SEC. 26. Section 56363.3 is added to the Education Code, to read:

56363.3. The average caseload for language, speech, and hearing specialists in districts, county offices, or special education service regions shall not exceed 55 cases, unless the local comprehensive plan specifies a higher average caseload and the reasons for the greater average caseload.

SEC. 27. Section 56363.5 is added to the Education Code, to read:

56363.5. School districts, county offices of education, and special education service regions may seek, either directly or through the pupil's parents, reimbursement from insurance companies to cover

the costs of related services to the extent permitted by federal law or regulation.

SEC. 28. Section 56365 of the Education Code is amended to read:

56365. (a) Nonpublic, nonsectarian school services, including services by nonpublic, nonsectarian agencies shall be available. Such services shall be provided under contract with the district, special education services region, or county office to provide the appropriate special educational facilities or services required by the individual with exceptional needs when no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 and Section 42238. The district, special education services region, or county office shall be eligible to receive allowances under Chapter 7 (commencing with Section 56700) for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) The district, special education services region, or county office shall pay to the nonpublic, nonsectarian school the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to such contract.

(d) Before contracting with a nonpublic, nonsectarian school outside of the State of California, every effort shall be made by the district, special education services region, or county office to utilize public schools, or to locate an appropriate nonpublic, nonsectarian school program within the state.

SEC. 29. Section 56367 of the Education Code is repealed.

SEC. 30. Section 56367 is added to the Education Code, to read:

56367. (a) Placements in state special schools pursuant to Sections 59020, 59120, and 59220 shall be made only as a result of recommendations from the individualized education program team, upon a finding that no appropriate placement is available in the local plan area.

(b) Notwithstanding the provisions of subdivision (a), referrals for further assessment and recommendations to the California Schools for the Deaf and Blind or the Diagnostic Schools for Neurologically Handicapped Children, pursuant to Section 56326, shall not constitute placements in state special schools.

SEC. 31. Section 56368 of the Education Code is amended to read:

56368. (a) A program specialist is a specialist who holds a valid special education credential, clinical services credential, health services credential, or a school psychologist authorization and has advanced training and related experience in the education of individuals with exceptional needs and a specialized indepth knowledge in preschool handicapped, career vocational development, or one or more areas of major handicapping conditions.

(b) A program specialist may do all the following:

(1) Observe, consult with, and assist resource specialists, designated instruction and services instructors, and special class teachers.

(2) Plan programs, coordinate curricular resources, and evaluate effectiveness of programs for individuals with exceptional needs.

(3) Participate in each school's staff development, program development, and innovation of special methods and approaches.

(4) Provide coordination, consultation and program development primarily in one specialized area or areas of his or her expertise.

(5) Be responsible for assuring that pupils have full educational opportunity regardless of the district of residence.

(c) For purposes of Section 41403, a program specialist shall be considered a pupil services employee, as defined in subdivision (c) of Section 41401.

SEC. 32. Section 56380 of the Education Code is amended to read:

56380. (a) The district, special education services region, or county office shall maintain procedures for conducting, on at least an annual basis, reviews of all individualized education programs. The procedures shall provide for the review of the pupil's progress and the appropriateness of placement, and the making of any necessary revisions.

(b) The district, special education services region, or county office shall notify, in writing, parents of their right to request a review by the individualized education program team. The notice may be part of the individualized education program.

(c) Each individualized education program review shall be conducted in accordance with the notice and scheduling requirements for the initial assessment.

(d) When the individualized education program team finds that a pupil placed in a resource specialist program for more than one year has failed to show expected progress, the pupil shall receive a health and psychological evaluation as early as possible in the second year. The findings of the evaluation shall be interpreted for and considered by the individualized education program team in making their recommendations for the pupil.

SEC. 33. An article heading is added to Chapter 4.4 of Part 30 of the Education Code, immediately preceding Section 56425, to read:

Article 1. General Provisions

SEC. 34. Article 2 (commencing with Section 56430) is added to Chapter 4.4 of Part 30 of the Education Code, to read:

Article 2. Legislative Intent

56430. The Legislature hereby finds and declares that early intervention programs for handicapped infants, which provide educational, health, and social services with active parent involvement, can significantly reduce the potential impact of many

handicapping conditions, and positively influence later development when the child reaches school age.

It is the intent of the Legislature that existing services rendered by state agencies serving handicapped infants be coordinated and maximized.

SEC. 35. Article 3 (commencing with Section 56435) is added to Chapter 4.4 of Part 30 of the Education Code, to read:

Article 3. Ad Hoc Committee on Early Intervention

56435. (a) There shall be established among existing state advisory bodies an Ad Hoc Committee on Early Intervention to guide, advise, and assist the Governor, the Legislature, the State Board of Education, and state agencies concerned with providing services to handicapped infants. The ad hoc committee shall consist of the following members as selected by the designated body:

(1) Two members of the State Advisory Commission on Special Education, one of whom shall be a parent of a pupil who has received or is currently receiving special education services due to a handicapping condition.

(2) Two members of the State Maternal, Child, and Adolescent Health Board, one of whom shall be a parent of a child eligible for health services administered by the State Department of Health Services.

(3) Two members of the State Council on Developmental Disabilities, Infant Subcommittee, one of whom shall be a parent of a child who is developmentally disabled.

(4) One member of the Governor's Advisory Committee on Child Care and Development.

(5) One member of the Advisory Committee of the State Implementation Grant for Handicapped Children's Early Education programs.

(b) The ad hoc committee may invite parents, departmental personnel and others to participate as needed.

(c) The first meeting of the ad hoc committee shall be called by the members of the State Advisory Commission on Special Education no later than November 15, 1982. The ad hoc committee chair shall be selected by members of the committee.

56436. The ad hoc committee shall submit a report to the Governor, the Legislature, the State Board of Education, and appropriate state agencies, by December 1, 1983, which shall include, but not be limited to, the following:

(a) The identification of barriers to full services to all handicapped infants.

(b) Recommendations of procedures for coordinating existing services to ensure the most effective use of funds and personnel.

(c) Recommendations for legislative action.

(d) Recommendations for possible future funding sources for programs serving handicapped infants.

56437. 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 on or before January 1, 1984, deletes or extends that date.

SEC. 36. Section 56504 of the Education Code is amended to read:

56504. The parent shall have the right and opportunity to examine all school records of the child and to receive copies pursuant to this section and to Section 49065 within five days after such request is made by the parent, either orally or in writing. A public educational agency may charge no more than the actual cost of reproducing such records, but if this cost effectively prevents the parent from exercising the right to receive such copy or copies the copy or copies shall be reproduced at no cost.

SEC. 37. Section 56505 of the Education Code is amended to read:

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the board. The hearing shall be conducted by a person knowledgeable in administrative hearings under contract with the department.

(b) The hearing shall be held at a time and place reasonably convenient to the parent and the pupil.

(c) The hearing shall be conducted by a person knowledgeable in the laws governing special education and administrative hearings under contract with the department.

(d) During the pendency of the hearing proceedings, including the actual state-level hearing, the pupil shall remain in his or her present placement unless the public agency and the parent agree otherwise.

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of handicapped children.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of witnesses.

(4) The right to a written or electronic verbatim record of the hearing.

(5) The right to written findings of fact and the decision.

(6) The right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the party at least five days before the hearing.

(f) The use of an attorney as a representative of the public education agency during any part of the hearing shall be governed by Section 56507.

(g) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision mailed to all parties to

the hearing within 45 days from the receipt by the superintendent of the request for a hearing. Either party to the hearing may request the superintendent or his or her designee to grant a continuance. The continuance shall be granted upon a showing of good cause. Any continuance shall extend the time for rendering a final administrative decision for a period only equal to the length of the continuance.

(h) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(i) In decisions relating to the placement of individuals with exceptional needs, the person conducting the state hearing shall consider cost, in addition to all other factors that are considered.

(j) Nothing in this chapter shall preclude a party from exercising the right to appeal the decision to a court of competent jurisdiction. Any appeal to court by a public education agency or parent shall not operate as an automatic stay of enforcement of the final administrative determination. However, nothing in this section shall be construed to preclude either party to the hearing from seeking a stay of enforcement from any court of competent jurisdiction, and nothing in this section shall be construed to remove the requirement for parental consent for placement pursuant to subdivision (f) of Section 56506.

SEC. 37.5. Section 56507 of the Education Code is amended to read:

56507. (a) Except as provided in subdivisions (b) and (c), the public education agency shall not use the services of an attorney for actual presentation of written argument, oral argument, evidence, or any combination thereof, during any part of a mediation conference, individualized education program meeting, or state hearing.

(b) The public education agency may initiate the use of the services of an attorney for actual presentation of written argument, oral argument, evidence, or any combination thereof, during a mediation conference, individualized education program meeting, or state hearing, provided that all the following requirements are satisfied:

(1) The public education agency notifies the parent, in writing, of the use of such services at least three days prior to the mediation conference or individualized education program meeting, or at least 10 days prior to the state hearing, as appropriate.

(2) The public education agency provides for a listing of attorneys knowledgeable in mediation conferences, individualized education program meetings, and state hearings to be provided to the parent.

(3) The public education agency bears only those costs of the services of any attorney provided to the parent for which the parent is required to pay. However, in no case shall such costs to the agency be greater than the cost to the agency for its own attorney services, including the cost of preparation and advice.

(c) (1) The public education agency may use the services of an attorney for actual presentation of written argument, oral argument,

evidence, or any combination thereof, during a mediation conference, individualized education program meeting, or state hearing, if the parent initiates the use of the services of an attorney. The parent shall notify the public education agency, in writing, of the use of such services at least three days prior to the mediation conference or individualized education program meeting or at least 10 days prior to the state hearing, as appropriate.

(2) If the parent uses the services of an attorney pursuant to paragraph (1), the parent shall bear his or her costs.

If the public education agency uses the services of an attorney pursuant to paragraph (1), it shall bear its costs.

(d) Nothing in this section shall be construed to limit the use of attorney services by a public education agency other than for actual presentation of written argument, oral argument, evidence, or any combination thereof during any part of the mediation conference, individualized education program meeting, or state hearing.

SEC. 38. Section 56712 of the Education Code is amended to read:

56712. From the sum computed pursuant to Section 56711, the county superintendent shall subtract all the following:

(a) Applicable special education federal funds received by each district or county office.

(b) For the 1981–82 fiscal year only, an amount equal to the difference, if positive, between the sum of state aid received pursuant to this chapter, local general fund contribution, federal funds, and district revenue limits for special day classes and centers, and county taxes for special education for the prior fiscal year, and the amount actually spent on special education programs and services pursuant to this part, for the prior fiscal year.

(c) The property taxes allocated to special education programs pursuant to Section 2572.

(d) The district revenue limit amounts for pupils in special day classes and centers in each district or county office.

(e) The local general fund contribution for special education computed pursuant to Article 6 (commencing with Section 56750).

(f) Any amounts allocated to school districts for special education programs pursuant to subdivision (b) of Section 56713.

SEC. 39. Section 56713 of the Education Code is amended to read:

56713. (a) The amount computed pursuant to Section 56712 shall be apportioned as state aid. Commencing with the 1980–81 fiscal year and each fiscal year thereafter, state aid shall be apportioned as part of the apportionments prescribed by Sections 41330, 41332, and 41335.

(b) Commencing in the 1982–83 fiscal year and for each fiscal year thereafter if, for any county office, the remainder computed pursuant to Section 56712 is a negative amount, no state aid shall be distributed to that county office for purposes of Section 56711. In addition, the county superintendent shall allocate an amount equal to that negative amount to school districts in that county on the basis of the district's average unduplicated pupil counts for the fall and

spring semesters for the then current fiscal year.

SEC. 40. Section 56736 of the Education Code is amended to read:

56736. It is the intent of the Legislature that the adjusted operating costs for special education as computed pursuant to Section 56732 exclude all costs associated with the services enumerated in subdivision (c) of Section 56220 regardless of whether the district or county office operated under the Master Plan for Special Education during the 1979–80 fiscal year and regardless of whether the district or county office received special funding for these services. The Superintendent of Public Instruction shall:

(a) Identify the costs associated with the services enumerated in subdivision (c) of Section 56220 for all districts and county offices during the 1979–80 fiscal year.

(b) Recompute the support services quotients for districts and county offices, excluding the costs identified in subdivision (a) from the computation, not to exceed ninety-three dollars ($93) per unduplicated pupil count.

SEC. 41. Section 56737 of the Education Code is amended to read:

56737. For the 1981–82 fiscal year and for each fiscal year thereafter, the Superintendent of Public Instruction shall:

(a) Compute the statewide unweighted average of the support services quotients computed pursuant to Section 56736, for the 1980–81 fiscal year.

(b) Compute a support services quotient for each district and county office claiming reimbursement pursuant to this chapter for the then current fiscal year for instructional personnel services units, other than for the severely handicapped, as defined in Section 56030.5, in the following manner:

(1) If the support services quotient for the prior fiscal year is greater than 1.5 times the average quotient computed pursuant to subdivision (a), then the quotient for the current fiscal year shall be 1.5 times the average quotient computed pursuant to subdivision (a).

(2) If the support services quotient for the prior fiscal year is less than or equal to 1.5 times the average quotient computed pursuant to subdivision (a) but greater than the average quotient computed pursuant to subdivision (a), then the quotient for the then current fiscal year shall be the greater of (A) or (B):

(A) The average computed pursuant to subdivision (a).

(B) The support services quotient for the prior fiscal year minus 0.1.

(3) If the support services quotient for the prior fiscal year is less than or equal to the average quotient computed pursuant to subdivision (a), then the quotient for the then current fiscal year shall be equal to the quotient for the prior fiscal year.

(4) If a district or county office did not operate special education programs and services in the fiscal year, its support services quotient for the then current fiscal year shall be the lesser of (A) or (B):

(A) The average quotient computed pursuant to subdivision (a).

(B) The statewide unweighted average for the appropriate class

district or county office identified in Section 56735.

(c) The support services quotient for special day class instructional personnel services units for the severely handicapped, as defined in Section 56030.5, shall be the quotient for the prior fiscal year, except that that quotient shall not exceed 1.5 times the average quotient computed pursuant to subdivision (a).

(d) No district or county office which had a nonseverely handicapped support services ratio of 1.5 times the average in the 1981–82 fiscal year shall have that average reduced below 1.15 times the average in subsequent years.

(e) Compute a total support services amount for each district and county office equal to the sum of (1) and (2):

(1) Multiply the support services quotient for the current fiscal year computed pursuant to subdivision (b) or (c) by the instructional amounts for the appropriate types of programs, computed pursuant to Section 56725.

(2) Multiply the support services quotient for the current fiscal year computed pursuant to subdivision (b) by the extended year amount computed pursuant to Section 56726. Support services amounts for extended year programs for other than the severely handicapped, as defined in Section 56030.5, shall be divided by 2.

SEC. 42. 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) 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.

SEC. 43. Section 56773.5 is added to the Education Code, to read:

56773.5. (a) For the purposes of this article, "approved cost" means transportation for individuals with exceptional needs provided in the following manner:

(1) Door-to-door transportation for severely handicapped special day class students, severity of whose handicaps precludes all other forms of transportation.

(2) Transportation from pick-up stations for other severely handicapped students, if the nature or severity of the student's handicap or the student's age precludes other forms of transportation.

(3) For nonseverely handicapped students in special day classes, transportation from pick-up stations only if other forms of transportation are not available and one of the following conditions is met:

(i) The student is orthopedically handicapped, or possesses a health impairment which precludes other forms of transportation.

(ii) The student has not yet entered the seventh grade.

(iii) The student is not placed in a school within two miles of the student's home, unless the school which the student would normally attend is more than two miles from the student's home.

(4) Transportation for those Resource Specialist Program students and students receiving only designated instruction and services who are orthopedically handicapped or possess a health impairment which precludes other forms of transportation.

(b) A county office of education or a district which does not receive state home-to-school transportation aid may apply to the Superintendent of Public Instruction for a waiver of the provisions of this section.

SEC. 44. Section 56775 of the Education Code is repealed.

SEC. 45. Section 56775 is added to the Education Code, to read:

56775. For the 1980–81 fiscal year and for each fiscal year

thereafter, the superintendent shall apportion to each district and county superintendent providing programs pursuant to Article 5 (commencing with Section 56155) of Chapter 2 an amount equal to the difference, if any, between (1) the costs of contracts with nonpublic, nonsectarian schools to provide special education instruction, related services, or both, to pupils in licensed children's institutions, as funded pursuant to this chapter, and (2) the state and federal income received by the district or county superintendent for providing those programs. The sum of the excess cost plus any income from the state or federal government for those purposes shall not exceed the cost of contracts with nonpublic, nonsectarian schools to provide special education and related services for those pupils, as determined by the superintendent.

SEC. 46. Section 56780 of the Education Code is repealed.

SEC. 47. Section 56780 is added to the Education Code, to read:

56780. (a) Commencing with the 1982–83 fiscal year and each fiscal year thereafter, the superintendent shall multiply the average of the unduplicated pupil counts for the fall and spring semesters of the then current fiscal year, not to exceed 10 percent of the enrollment in kindergarten and grades 1 to 12, inclusive, in the local plan, by forty-four dollars ($44), as adjusted pursuant to Section 56782.

(b) Funds received pursuant to this section shall be expended only for the following purposes:

(1) Program specialists.

(2) Regionalized services as defined pursuant to subdivision (c) of Section 56220.

(3) Instructional personnel services units in excess of those funded pursuant to Article 2 (commencing with Section 56710) of Chapter 7. Units funded pursuant to this section shall not be considered part of the base number of units funded or operated for any district, county office or local plan area for the purposes of the growth tests specified in Section 56728.6.

SEC. 48. Section 56828 of the Education Code is amended to read:

56828. (a) No educational programs already in operation in school districts pursuant to Part 30 (commencing with Section 56000) shall be transferred to the county superintendent of schools, or to other school districts, or from the county superintendent of schools to school districts, without the approval of the Superintendent of Public Instruction, if the transfer would result in an entitlement to increased state aid pursuant to this chapter.

(b) In the event the transfer is approved, the support services amounts and Instructional Personnel Service Units amounts for the transferring agencies and county superintendent of schools shall be computed using a weighted average. The Superintendent of Public Instruction shall determine the additional costs to the state, if any, caused by the transfer, and permanently reduce the districts' revenue limits, or the county superintendent's support services entitlement, or both the districts' revenue limits and the county

superintendent's support services entitlement, by an amount equal to the additional cost.

SEC. 49. Section 56851 of the Education Code is amended to read:

56851. (a) In developing the individualized educational program for an individual residing in a state hospital who is eligible for services under Public Law 94-142, a state hospital shall include on its interdisciplinary team a representative of the district, or special education services region, or county office in which the state hospital is located, and the individual's state hospital teacher, depending on whether the state hospital is otherwise working with the district, special education services region, or county office for the provision of special education programs and related services to individuals with exceptional needs residing in state hospitals. However, if a district or special education services region that is required by this section to provide a representative from the district or special education services region does not do so, the county office shall provide a representative.

(b) The state hospital shall reimburse the district, special education services region, or the county office, as the case may be, for the costs, including salary, of providing the representative.

(c) Once the individual is enrolled in the community program, the educational agency providing special education shall be responsible for reviewing and revising the individualized education program with the participation of a representative of the state hospital and the parent. The agency responsible for the individualized education program shall be responsible for all individual protections, including notification and due process.

SEC. 50. Section 56852 of the Education Code is amended to read:

56852. In developing the individualized educational program and providing all special education programs and related services to individuals with exceptional needs residing in the state hospitals, the state hospitals shall comply with the requirements of Public Law 94-142, Public Law 93-112, and special education provisions of this part and implementing regulations. Special education and related services shall be provided to each individual residing in a state hospital pursuant to the individualized education program for that individual.

SEC. 51. Section 56852.5 is added to the Education Code, to read:

56852.5. The State Department of Education, within its existing program review process, shall specifically review the appropriateness of pupil placement for educational services as designated in the pupil's individualized education program and the criteria used in determining such placement.

SEC. 52. Section 56853 of the Education Code is amended to read:

56853. Nothing contained in this chapter shall affect the continued authority of the State Departments of Developmental Services and Mental Health over educational programs for individuals not eligible for services under Public Law 94-142 nor shall it affect the overall responsibility of the state hospitals for the care,

treatment, and safety of individuals with exceptional needs under their control. The state hospitals shall continue to render appropriate and necessary developmental services, health related services, psychiatric services, and related services assigned to the state hospitals in the local written agreements, as part of their responsibilities for the care and treatment of state hospital residents.

Health related services shall include services provided by physicians, psychiatrists, psychologists, audiologists, registered nurses, social workers, physical therapists, occupational therapists, psychiatric technicians, and developmental specialists, and shall be the responsibility of the state hospital if the individual with exceptional needs requires these services while in the community program.

SEC. 53. Section 56854 of the Education Code is amended to read:

56854. (a) The Superintendent of Public Instruction and the Directors of the State Departments of Developmental Services and Mental Health shall develop written interagency agreements to carry out the purposes of this chapter.

(b) For each county in which a state hospital is located, the county superintendent of schools, with the approval of the county board of education and the administrator of the state hospital, shall develop a local written agreement to carry out the purposes of this chapter. Such agreements shall be reviewed and updated annually and may be modified at any time with the concurrence of both parties to the agreements.

SEC. 54. Section 56856 of the Education Code is amended to read:

56856. In order to provide appropriate special education and related services to an individual residing in a state hospital, the State Departments of Developmental Services and Mental Health shall contract with a county superintendent of schools, nonpublic, nonsectarian school, or other agency to provide all or part of the services that the individual's individualized education program indicates should be provided in a program other than on state hospital grounds. A contract between a state hospital and a nonpublic, nonsectarian school shall only be entered into when no appropriate public education program is available.

SEC. 55. Section 56857 of the Education Code is amended to read:

56857. Nothing in this chapter shall preclude the State Departments of Developmental Services and Mental Health from contracting with a local public education agency, nonpublic, nonsectarian school, or other agency to provide special education and related services on the state hospital grounds for those pupils whose individualized education programs do not indicate that such education and services should be provided in a program other than on state hospital grounds.

This section shall remain in effect only until July 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends that date.

SEC. 56. Section 56857.5 is added to the Education Code, to read:

56857.5. (a) Commencing with the 1982–83 fiscal year, community school agencies providing school programs on state hospital grounds shall begin the orderly transfer of all state hospital pupils whose individualized education programs indicate that a community school program is appropriate, to schools located in the community.

(b) Commencing with the 1983–84 fiscal year, all pupils covered by subdivision (a) shall be served in community schools other than on state hospital grounds, and the contracting provisions of this chapter shall apply only to pupils in community school programs other than on state hospital grounds.

(c) Waivers to subdivisions (a) and (b) may be granted only when approved by both the State Superintendent of Public Instruction and the Director of the State Department of Developmental Services.

SEC. 57. Section 56858 of the Education Code is repealed.

SEC. 58. Section 56858 is added to the Education Code, to read:

56858. (a) For the 1982–83 fiscal year and each fiscal year thereafter, the State Department of Developmental Services shall, on a monthly basis, commencing August 1, pay to the county superintendent of schools 8 percent of the amount obtained pursuant to the following formula:

(1) The prior year actual reported costs for special education as reported on the final expenditure report shall be used as the basis for determining actual per pupil expenditures for pupils from state hospitals who are attending special classes in community based programs.

(2) A supplemental cost report shall be prepared. This report shall include all of the following:

(i) A deduction for any unduplicated designated instruction and services and resource specialist programs reported in the final expenditure report.

(ii) Where in-kind services or personnel have been provided by the state hospital, the cost of the in-kind services or personnel which would have resulted if the services or personnel had been provided by the district or county.

The cost of in-kind services calculated pursuant to subparagraph (ii) shall be added to the amount obtained pursuant to paragraph (1) to yield an adjusted total special education expenditure which includes expenditures for in-kind services.

(3) The adjusted total special education expenditure obtained pursuant to paragraph (2) shall be divided by the average daily attendance for all special class pupils attending special education programs in the district and county, including state hospital pupils, to obtain an adjusted average per pupil cost for special education.

(4) The adjusted average per pupil cost for special education obtained pursuant to paragraph (3) shall be multiplied by the average daily attendance for state hospital pupils enrolled in special classes operated by the district and county.

(5) The cost of in-kind services and personnel obtained pursuant

to subparagraph (ii) of paragraph (2) shall be deducted from the amount obtained pursuant to paragraph (4).

(b) The county superintendent shall prorate funds to participating districts.

(c) The actual reported costs of average daily attendance shall be taken from a supplemental cost reporting form submitted by the county superintendent of schools, as prescribed by the Superintendent of Public Instruction, and provided to the State Department of Developmental Services.

(d) The current year expenditures for special education and current year contributions for in-kind services and personnel shall be used to determine the adjusted per pupil cost for special education in the same manner prescribed by subdivision (a).

(e) The State Department of Developmental Services shall pay, by October 31 of the following year, the amount determined under subdivision (d), less the amount advanced pursuant to subdivision (a).

(f) Commencing with the 1983–84 fiscal year, this section shall apply only to pupils served in community school programs other than on state hospital grounds, unless a waiver is jointly approved by the State Superintendent of Public Instruction and the Director of the State Department of Developmental Services.

(g) The Superintendent of Public Instruction shall monitor the use of these funds to ensure that they are expended pursuant to the provisions of this chapter, to provide special education and related services to individuals residing in state hospitals.

SEC. 59. Section 56858.5 is added to the Education Code, to read:

56858.5. (a) Any contract prescribed by this chapter shall become effective unless disapproved by the State Department of Finance or State Department of General Services within 20 working days of receipt of the contract. Each department shall have 10 working days to consider the contract.

(b) Contracts shall be submitted to the State Department of Developmental Services for approval before May 15.

(c) No payments shall be processed in advance of contract approval, and no educational services shall be provided in the community school programs in advance of contract approval.

SEC. 60. Section 56858.7 is added to the Education Code, to read:

56858.7. (a) Nothing in this chapter shall prohibit the inclusion of in-kind services or the assignment of state hospital personnel in a contract for services pursuant to this chapter.

(b) Ten percent of the contract costs shall be attributed to in-kind services. In-kind services above 10 percent of the contract costs shall be mutually agreed upon by both parties to the contract. Any disagreement over in-kind services above 10 percent shall not be cause for delaying approval of the contract.

(c) A 60 day prior written notice shall be given by the state hospital to the county superintendent of schools for the initiation or removal of in-kind state hospital classified personnel.

SEC. 61. Section 56859 of the Education Code is amended to read:

56859. All certificated state hospital employees hired to provide educational services to individuals of mandated school age after September 29, 1980, shall possess an appropriate California credential in special education. Current certificated state hospital employees who do not possess appropriate California credentials in special education shall be given a period of not more than five years from September 29, 1980, to obtain such appropriate credentials. Certificated state hospital employees who do not possess appropriate California credentials in special education at the end of the five-year period shall be reassigned to provide educational services to individuals residing in state hospitals who are not eligible for services under Public Law 94-142.

SEC. 62. Section 56860 of the Education Code is repealed.

SEC. 63. Section 56860 is added to the Education Code, to read:

56860. Special transportation shall be the responsibility of the state hospital.

SEC. 64. Section 56863 of the Education Code is amended to read:

56863. The state hospitals, as part of the notification to parents of pupils of their rights pursuant to Public Law 94-142, Public Law 93-112, and this part and implementing regulations, shall notify parents of the right that their child can be considered for education programs other than on state hospital grounds.

For the purposes of this section, the term "parent of pupil" shall mean a parent, a legal guardian, a conservator, a person acting as a parent of a child, or a surrogate parent appointed pursuant to Public Law 94-142.

Information and records concerning state hospital patients in the possession of the Superintendent of Public Instruction shall be treated as confidential under Section 5328 of the Welfare and Institutions Code and the Federal Privacy Act of 1974, Public Law 93-579.

SEC. 65. Section 56864 is added to the Education Code, to read:

56864. Individuals with exceptional needs served under this chapter shall not be subject to the service proportions prescribed by Article 7 (commencing with Section 56760) of Chapter 7, or the growth tests prescribed by Section 56728.6.

SEC. 66. Section 56865 is added to the Education Code, to read:

56865. Funds appropriated by Section 11 of Chapter 1191 of the Statutes of 1980 may be used for remodeling classrooms located in a community school, in addition to the purposes of Chapter 25 (commencing with Section 17785) of Part 10, in order to serve state hospital pupils whose individualized education programs require a community school program.

SEC. 67. Section 1597.63 of the Health and Safety code is amended to read:

1597.63. A day care facility for children which provides care for six or fewer children, exclusive of children who reside at the facility, and which also serves as the residence of the licensee, shall be

considered a residential use of property for the purposes of all local ordinances, and shall not be classified by a local zoning ordinance in any way which provides or implies that the facility is a business run for profit or differs in any other way from a single-family residence. No conditional use permit, zoning ordinance, or other zoning clearance shall be required for such a facility which is not required of a single-family residence in the same zone. Use of a single-family dwelling for purposes of a day care facility for children serving six or fewer children, exclusive of children who reside at the facility, shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

Nothing in this section is intended to supersede Section 13143 or Section 13143.6, to the extent that such sections are applicable to day care facilities for children. The provisions of this section shall not be construed to preclude any city, county, or other local public entity from placing restrictions on building heights, setback, or lot dimensions of a day care facility which serves six or fewer children as long as such restrictions are identical to those applied to other single-family residences. The provisions of this section shall not be construed to preclude the application to a day care facility for children of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity; provided, that such ordinance does not distinguish day care facilities which serve six or fewer children, exclusive of children who reside at the facility, from other single-family dwellings.

SEC. 68. Item 6100-161-001 of the Budget Act of 1982 (Ch. 326, Stats. 1982) is amended to read:

6100-161-001—For local assistance, Department of Education, Special Education Programs for Exceptional Children (10.60) 726,380,000

Provisions:

1. Funds appropriated by this item for Special Education are to be allocated only in accordance with provisions of Part 30 of the Education Code superseding all prior law. Provided that $3.6 million or so much money as is necessary of these funds may be used to meet the matching requirement necessary to maximize the funds available under PL 94-482, Vocational Education, National Priority Programs for handicapped students. For the purposes of Section 56712 of the Education Code, federal funds shall include any PL 94-482 Vocational Education, National Priority Programs funds received by

the district or county office of education, if the federal government determines that the PL 94-482 funds may be considered applicable federal funds within the meaning of Section 56712 of the Education Code. Notwithstanding any other provision of law, in computing apportionments pursuant to Section 56712 of the Education Code, the Superintendent of Public Instruction shall reduce each local agency's apportionment by the General Fund amount the local agency receives to match federal funds available under PL 94-482, Vocational Education, National Priority Programs for handicapped students.

2. Funds included for the purposes of Article 8 (commencing with Section 56770) of Chapter 7 of Part 30 of the Education Code shall not exceed $80,260,000.
3. No more than $350,000 may be used for in-service training for special education teachers.
4. The funds appropriated by this item for the Special Education Program shall be transferred for direct disbursement by the Department of Education from the State School Fund.
5. Of the amount appropriated by this item, $35,000,000 shall be used to fund any deficiency in category (d) of Item 610-101-001 of Chapter 99 of the Statutes of 1981, but only if SB 1345 of the 1981–82 Regular Session is chaptered and prescribes the allocation of that amount.
6. At least $67,800,000 of the amount appropriated in Item 6100-161-890 shall be allocated for local entitlements.
7. If the funds appropriated in Item 6100-161-890 which are actually received by the State exceed $78,600,000, all funds in excess of $78,600,000 shall be allocated for local entitlements.
8. Funds included for the purposes of Article 9 (commencing with Section 56780) of Chapter 7 of Part 30 of the Education Code shall not exceed $24,700,000.
10. Of the amount appropriated by this item, $3,600,000 shall be available for expenditure upon certification by the Director of Finance. The Director of Finance may make such a certification only after determining that federal funds, available under PL 94-482, Vocational Education, National Priority Programs for handicapped students, may not be considered as available federal funds within the state funding

process of the Master Plan for Special Education pursuant to Education Code Section 56712 without causing a loss of these federal funds.

SEC. 69. Section 21.42 of the Budget Act of 1982 (Ch. 326, Stats. 1982) is amended to read:

Sec. 21.42. Pursuant to the provisions of Section 8250 of the Education Code, the Superintendent of Public Instruction may allocate funds appropriated by Item 6100-196-001 to continue to provide reimbursements to child care and development programs serving severely handicapped children which received state funding during the 1980–81 fiscal year. Notwithstanding the provisions of paragraph (3) of subdivision (d) of Section 8250 of the Education Code, the Superintendent shall develop a schedule of parent/guardian fees which must be implemented by recipient programs as a condition for the receipt of state funding during 1982–83. This schedule shall be reasonable and shall reflect appropriately the financial ability of parents or guardians to pay fees.

A fee shall not be assessed if the child has been referred to the program by another agency, such as a regional center, or if the family is required to pay a fee through another component of the program, such as a Mental Health UMDAP process.

The programs shall deduct from the families' fees those costs incurred by families for other child development services required because of the child's handicap or the employment, education, or training of the parent. The programs may absorb the loss of unpaid parent fees.

SEC. 70. Section 16 of Chapter 209 of the Statutes of 1982 is amended to read:

Sec. 16. Notwithstanding proviso 33 of the provisions applicable to Items 610-101-001 through 610-101-890 of the Budget Act of 1981, as amended by Section 19 of Chapter 169 of the Statutes of 1981, or any other provision of law, the amount allocated for child development programs pursuant to category (k) of proviso 24 of the provisions applicable to Items 610-101-001 through 610-101-890 of the Budget Act of 1981, as amended by Section 19 of Chapter 169 of the Statutes of 1981, and as augmented by Section 36 of Chapter 100 of the Statutes of 1981, as amended by Section 18 of Chapter 133 of the Statutes of 1981 and Section 19 of Chapter 1063 of the Statutes of 1981, shall be distributed to school districts and other eligible agencies based on their average daily enrollment as follows:

(a) Agencies with a fiscal year 1980–81 assigned reimbursement rate which is at or below the fiscal year 1980–81 standard reimbursement rate shall receive the full inflation adjustment. Such agencies may also apply for, and the Superintendent of Public Instruction may grant, on a case-by-case basis, increases in their assigned reimbursement rates not to exceed the fiscal year 1981–82 standard reimbursement rate, from funds set aside for that purpose in subdivision (c).

(b) Agencies with a fiscal year 1980–81 assigned reimbursement rate which is greater than the fiscal year 1980–81 standard reimburse-

ment rate, but not greater than 125 percent of the fiscal year 1980–81 standard reimbursement rate, shall receive the full inflation adjustment. Such agencies shall not apply for, and the Superintendent of Public Instruction shall not grant, any increase in their assigned reimbursement rates.

(c) Agencies with a fiscal year 1980–81 assigned reimbursement rate which is greater than 125 percent of the fiscal year 1980–81 standard reimbursement rate shall receive 75 percent of the full inflation adjustment. An amount equal to the remaining 25 percent of the full inflation adjustment for such agencies is hereby set aside for the purpose of allocation by the Superintendent of Public Instruction to increase assigned reimbursement rates of agencies as specified in subdivision (a).

(d) For purposes of allocation to child development agencies, the provisions of this section shall be deemed to have been in effect for the entire 1981–82 fiscal year.

(e) The Legislature recognizes the fact that the provisions of this section, while applying for the entire 1981–82 fiscal year pursuant to subdivision (d), represent a modification of the requirements in effect prior to the effective date of this act. Under such previously existing requirements, child development agencies with fiscal year 1980–81 assigned reimbursement rates in excess of the fiscal year 1980–81 standard reimbursement rate, depending upon the extent of such excess, were required to use part or all of any additional allocations over and above their fiscal year 1980–81 assigned reimbursement rate to increase average daily enrollment. Pursuant to the provisions of this section, such increases in average daily enrollment are not required. To the extent that child development agencies increased their average daily enrollment during the fiscal year 1981–82 pursuant to such previously existing requirements, they shall not be eligible for reimbursement for such additional average daily enrollment.

Child development agencies that increased their average daily enrollment under the previously existing requirements shall receive the full inflation adjustment for the fiscal year 1981–82. Such eligibility shall only apply to an agency with a fiscal year 1981–82 assigned reimbursement rate between 100-125 percent of the fiscal year 1981–82 standard reimbursement rate.

SEC. 71. The County Superintendent of Schools of San Mateo County may establish an independent data processing center under the provisions of Sections 10552 to 10560, inclusive, of the Education Code.

SEC. 72. (a) Within six months of the effective date of this act, the Office of Planning and Research shall report to the Senate Committees on Education and Finance and to the Assembly Committees on Education and Ways and Means on the implementation of Chapter 1276 of the Statutes of 1980, the Joint Funding for Education of Handicapped Children Act of 1980.

(b) Within six months of the effective date of this act, the Director

of Finance shall report to the Senate Committees on Education and Finance and to the Assembly Committees on Education and Ways and Means on the status of interagency agreements regarding the fiscal responsiblities for the provision of services to handicapped children pursuant to Sections 56475 and 56476 of the Education Code.

SEC. 73. Within six months after the effective date of this act, the State Department of Education shall develop an individualized education program form and process that minimizes the use of school district personnel in the assessment and placement of individuals with exceptional needs that receive only speech and language services, provided that the requirements of Public Law 94-142 and regulations adopted pursuant to that act are met.

SEC. 74. (a) For the 1982–83 fiscal year only, the state shall not fund instructional personnel services units in special education local plan areas for programs operated pursuant to Part 30 (commencing with Section 56000) of the Education Code in excess of the number of such units operated and funded at the second principal apportionment for the 1981–82 fiscal year, including units serving pupils in licensed children's institutions.

This restriction shall not apply to either of the following:

(1) Programs transferred between special education local plan areas, provided the transfers are subject to the provisions of Section 56828.

(2) Units added by special education local plan areas to accommodate students who were served by nonpublic schools during the 1981–82 fiscal year, if the state reimbursement for those units does not exceed the state reimbursement for nonpublic school costs for those students during the 1981–82 fiscal year.

(b) Each local plan area shall report to the county superintendent of schools the number of instructional personnel services units to which the local plan area is entitled, but which it will not utilize in any fiscal year. The county superintendent may redistribute those units for the fiscal year in which they were reported to other local plan areas within the county according to the following priorities:

(1) Units needed as a result of increased numbers of individuals with exceptional needs placed in licensed children's institutions and foster homes within a local plan area.

(2) Units needed due to increased enrollment within the local plan area.

The redistribution of units among local plan areas within a county shall be reported as transfer units and shall be subject to the provisions of Section 56828.

SEC. 75. The funds appropriated pursuant to Provision 5 of Item 6100-161-001 of the Budget Act of 1982 (Ch. 326, Stats. 1982) shall be allocated in the following manner:

(a) Nineteen million dollars ($19,000,000) shall be used to fund the deficiency for the 1981–82 fiscal year in programs funded pursuant to Article 2 (commencing with Section 56710) of Part 30 of the Education Code.

(b) Sixteen million dollars ($16,000,000) shall be used to fund the 1981–82 fiscal year deficiency in programs funded pursuant to Article 8 (commencing with Section 56770) of Part 30 of the Education Code.

SEC. 76. From the funds appropriated in Item 6100-161-001 of the Budget Act of 1982 (Ch. 326, Stats. 1982), the amount of eighty-four thousand seven hundred dollars ($84,700) shall be allocated to the Los Gatos Union School District, in addition to any other funds they would receive for special education programs and services, on behalf of a licensed children's institution program operated in 1979–80.

SEC. 77. The Legislative Analyst shall, by March 1, 1983, report to the Legislature regarding the funding of special education programs in licensed children's institutions. The report shall make recommendations regarding the restructuring or continuation of the current funding mechanism.

SEC. 78. It is the intent of the Legislature not to fund the deficit in the transportation portion of special education in the 1982–83 fiscal year.

It is further the intent of the Legislature that school districts and county offices of education should reduce transportation costs in special education by using regular home-to-school transportation to transport special education pupils whenever feasible and appropriate.

SEC. 79. It is the intent of the Legislature, if this bill and Assembly Bill 2652 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 56320 of the Education Code, and this bill is chaptered after Assembly Bill 2652, that Section 56320 of the Education Code, as amended by Section 15 of this act, shall remain operative until the effective date of Assembly Bill 2652, and that on the effective date of Assembly Bill 2652, Section 56320 of the Education Code, as amended by Section 15 of this act, be further amended in the form set forth in Section 15.5 of this act to incorporate the changes in Section 56320 proposed by Assembly Bill 2652. Therefore, if this bill and Assembly Bill 2652 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill 2652 is chaptered before this bill and amends Section 56320, Section 15.5 of this act shall become operative on the effective date of Assembly Bill 2652.

SEC. 80. It is the intent of the Legislature, if this bill and Assembly Bill 2652 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 56345 of the Education Code, and this bill is chaptered after Assembly Bill 2652, that Section 56345 of the Education Code, as amended by Section 23 of this act, shall remain operative until the effective date of Assembly Bill 2652, and that on the effective date of Assembly Bill 2652, Section 56345 of the Education Code, as amended by Section 23 of this act, be further amended in the form set forth in Section 23.5 of this act to incorporate the changes in Section 56345 proposed by Assembly Bill 2652. Therefore, if this bill and Assembly Bill 2652 are both chaptered and

become effective on or before January 1, 1983, and Assembly Bill 2652 is chaptered before this bill and amends Section 56345, Section 23.5 of this act shall become operative on the effective date of Assembly Bill 2652.

SEC. 81. 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.

SEC. 82. Notwithstanding any other provision of law, no appropriation is made by this act and the state shall not reimburse any local agency for any tax revenues lost by it under Section 67 of this act.

SEC. 83. This act is an urgency statute necessary for the immediate preservation of 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 provisions of this bill apply to as much of the 1982–83 fiscal year as possible, and to promote the orderly implementation of school district budgets, it is necessary that this act take effect immediately.

CHAPTER 1202

An act to add and repeal Section 19610.3 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 19610.3 is added to the Business and Professions Code, to read:

19610.3. In addition to the amounts required or allowed to be deducted from the parimutuel pools as provided by this chapter, every racing association other than the California Exposition and State Fair or a county or district agricultural association fair which conducts a racing meeting may elect permanently to deduct an additional amount up to 0.33 of 1 percent from the total parimutuel wagers placed within its inclosure.

The amounts deducted pursuant to this section shall be distributed to the city in which the racing meeting is conducted or, if the meeting is conducted outside the limits of any city, to the county in which the racing meeting is conducted. If a city or county has elected by ordinance to receive a distribution from a racing association under this section, it shall not at any time thereafter assess or collect, with

respect to an event conducted by that racing association, any license or excise tax or fee, including, but not limited to, any admission, parking, or business tax, or any tax or fee levied solely upon the racing association conducting a racing meeting or any racing patron. Further, a city or county electing to receive a distribution under this section shall continue to provide ordinary and traditional municipal services, such as police services and traffic control, in connection with racing meetings. "Ordinary and traditional services," as used in this section, shall mean those services provided by the city or county at no charge to the racing association in 1981. If an eligible city or county does not elect to receive a distribution under this section, the amount deducted shall be paid to the state as an additional license fee.

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. This act is an urgency statute necessary for the immediate preservation of 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 provisions of this act will take effect during the 1982 racing season, it is necessary that this act take effect immediately.

CHAPTER 1203

An act to amend Sections 9 and 2943 of the Civil Code, to amend Section 3123 of the Commercial Code, to amend Sections 777, 855, 865.2, 865.4, 5612.5, 6601, 6602, 7412, 11110 and 14409.2 of the Financial Code, to amend Sections 1155 and 1156 of the Government Code, to amend Section 19835 of the Health and Safety Code, and to amend Section 11715 of the Insurance Code, relating to financial transactions and institutions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 9 of the Civil Code is amended to read:

9. All other days than those mentioned in Section 7 are to be deemed business days for all purposes; provided, that as to any act appointed by law or contract, or in any other way, to be performed by, at, or through any bank organized under the laws of or doing business in this state, Saturday is a holiday and not a business day; and provided, that any act appointed by law or contract, or in any other way, to be performed on any day which is an optional bank holiday

as defined in Section 3123 of the Commercial Code, by, at, or through any bank or branch or office thereof, whether acting in its own behalf or in any other capacity whatsoever, may be performed on such optional bank holiday if the bank or branch or office thereof by, at, or through which such act is to be performed is open for the transaction of business on such optional bank holiday, or, at the option of the person obligated to perform the act, it may be performed on the next succeeding business day which is not a Saturday; and provided further, that as to any act appointed by law or contract, or in any other way, to be performed by, at, or through any bank organized under the laws of or doing business in this state, if July 4th, September 9th, or December 25th falls on a Saturday, the preceding Friday is a holiday and not a business day.

SEC. 2. 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 assignees.

(b) "Entitled person" means the trustor or mortgagor, or his 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 his authorized agent, shall, on the written demand of an entitled person, or his 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 true, correct, and complete copy of the note and any subsequent modification thereto, and a written statement showing:

(a) 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.

(b) The amounts of periodic payments, if any.

(c) The date on which the obligation is due in whole or in part.

(d) The date to which real estate taxes and special assessments have been paid to the extent such information is known to the lender.

(e) 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.

(f) The amount in an account, if any, maintained for the accumulation of funds with which to pay taxes and insurance premiums.

(g) 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.

Where the entitled person or the entitled person's authorized agent includes in the written demand a specific request for a copy of the deed of trust or mortgage, it shall be furnished with the written statement at no additional charge.

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, he is liable to the entitled person for all damages which he may sustain by reason of such refusal and, whether or not actual damages are sustained, he shall forfeit to the entitled person the sum of three hundred dollars ($300). 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 fifty dollars ($50) for furnishing the required statement, except that no charge

shall be made for such statement unless such charge has been specifically provided for in such 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.

SEC. 3. Section 3123 of the Commercial Code is amended to read:

3123. (1) Every instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, Saturday or a holiday, the instrument is payable on the next succeeding business day which is not a Saturday. Where the day of maturity of the instrument falls on an optional bank holiday or the instrument would except for the foregoing provision be payable on an optional bank holiday and it is payable by or at a banking house or any branch or separate office thereof, and the particular banking house or branch or separate office thereof by or at which the instrument is payable is open for the transaction of business on such optional bank holiday, the holder of the instrument may at his option present the instrument for payment at the banking house or branch or separate office thereof by or at which the instrument is payable on the optional bank holiday or on the next succeeding business day which is not a Saturday. An instrument payable on demand is not to be presented for payment on Sunday, Saturday, or a holiday but is to be presented for payment on the next succeeding business day which is not a Saturday, except that where the instrument is payable by or at a banking house or any branch or separate office thereof and the particular banking house or branch or separate office thereof by or at which the instrument is payable is open for the transaction of business on an optional bank holiday, the holder of the instrument may at his option present the instrument for payment at the banking house or branch or separate office thereof by or at which the instrument is payable on such optional bank holiday or on the next succeeding business day which is not a Saturday.

(2) For the purpose of this section "holiday" includes, if July 4th, September 9th, or December 25th falls on a Saturday, the preceding Friday.

(3) For the purpose of this section "optional bank holiday" means any closing of a bank because of an emergency, as that term is defined in the Bank Extraordinary Situation Closing Act (Chapter 20 (commencing with Section 3600) of Division 1 of the Financial Code), Good Friday commencing at 3 p.m. and every holiday referred to in Sections 6700 and 6701 of the Government Code, except the following:

(a) January 1st.
(b) July 4th.
(c) September 9th, known as "Admission Day."
(d) December 25th.

(e) Any Monday following any Sunday on which January 1st, July 4th, September 9th or December 25th falls.

(f) The last Monday in May.

(g) The first Monday in September.

(h) Good Friday from 12 noon until 3 p.m..

(i) The Thursday in November appointed as Thanksgiving Day.

(j) Every Sunday.

SEC. 4. Section 777 of the Financial Code, as added by Senate Bill No. 1364 of the 1981–82 Regular Session of the Legislature, is amended 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 involving robbery, burglary, theft, embezzlement, fraud, forgery, bookmaking, receiving stolen property, counterfeiting, or involving checks or credit cards or using computers.

(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. If, upon evaluation of the criminal history information received pursuant to this section, the bank determines that employment of the applicant would constitute an unreasonable risk to the bank or its customers, the applicant may be denied employment.

(c) A request for records pursuant to this section made of the Department of Justice shall be on a form approved by the department. The department may charge a fee to be paid by the requesting bank pursuant to subdivision (e) of Section 11105 of the Penal Code. No request shall be submitted without the written consent of the applicant.

(d) Any criminal history information obtained pursuant to this section is confidential and no recipient shall disclose its contents other than for the purpose for which it was acquired.

SEC. 5. 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 such 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. However, if the rate of interest is not ascertainable when the notice is sent, the notice shall state when the rate of interest will become available, and shall inform the depositor how to obtain the rate. If the rate of interest may vary over the term of the deposit, the bank shall inform the depositor of the initial rate of interest, the circumstances under which such variation may occur, and the method of determining the rate of interest.

(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 is not applicable to:

(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. 6. Section 865.2 of the Financial Code is amended to read:

865.2. A bank shall maintain information about: (1) the amount or, if no amount can be stated, the method of determining the amount of each charge which the bank may impose on an account; (2) the rate of interest, the annual yield, and the method that will be used in computing and paying interest on the account, if any, including any provision for nonpayment of interest on deposits made after the beginning of the interest payment period or withdrawn before the end of such period; and (3) the effective date thereof. The information shall be available to the public at each office in California at which such accounts are maintained in one or both of the following ways: (1) in written materials displayed and available to the public in an area of the bank open to the public; or (2) in any form of

communication; provided that written materials displayed in an area of the bank open to the public tell how to get the information.

SEC. 7. Section 865.4 of the Financial Code is amended to read:

865.4. (a) Except as hereafter provided, prior to the time of accepting the initial deposit into an account, a bank shall furnish a written statement or statements to the depositor, which the depositor may retain, setting forth the information described in Section 865.2.

If the depositor is not physically present at a branch office of the bank at the time the initial deposit is accepted and the written statement has not been furnished previously, the bank shall deliver the written statement to the depositor personally, or mail or deliver it to the depositor at the address shown on the records of the bank for that account, not later than 10 days after the date of the initial deposit.

(b) (1) Except as provided in subdivision (c), before any charge which has been disclosed in a statement furnished to a depositor is increased for that account, or any charge which has not been disclosed in a statement furnished to a depositor is imposed on that account, or any charge is imposed on an account if a statement has not been furnished as required by subdivision (a), the bank shall deliver to the depositor personally, or mail or deliver to the depositor at the address shown on the records of the bank for that account, a written statement or statements disclosing the increased charge or new charge in a manner provided in subdivision (a), or the written statement or statements required by subdivision (a), not less than 15 days prior to the date on which the charge is to be increased or first imposed, unless such charge or change therein is required by law or regulation.

(2) Except with respect to an account in which the rate of interest may vary, or as provided in subdivision (c), before a bank makes a change in the rate of interest or the method or frequency of computing or paying interest such that the annual yield will be less favorable to a depositor than under the previous rate, method, or frequency, the bank shall deliver to the depositor personally, or mail or deliver to the depositor at the address shown on the records of the bank for that account, a written statement or statements disclosing such change not less than 15 days prior to the effective date of such change, unless such change is required by law or regulation.

(c) With respect to an account established prior to July 1, 1977, unless previously furnished, a bank shall deliver to its depositors personally, or mail or deliver to its depositors at the address shown on the records of the bank for those accounts which are demand deposits, not later than July 1, 1977, and for those accounts which are savings and time deposits, not later than January 31, 1978, a current written statement or statements disclosing the information described in Section 865.2 which is in effect at that time.

(d) If there is more than one depositor with respect to an account, the bank need furnish the information required by this section to

only one of them.

(e) An unincorporated association of natural persons may execute a written waiver of the requirements of this section when establishing an account which provides for specially negotiated arrangements with respect to the charges, interest rate, and method or frequency of computing and paying interest applicable to such account.

(f) For the purposes of the second paragraph of subdivision (a), a bank is not required to make subsequent initial disclosures solely because a depositor makes or authorizes subsequent deposits which individually may bear different rates of interest notwithstanding that federal or state law or regulation treat such deposits as separate accounts, if the deposits are made or authorized in accordance with an arrangement contemplating a series of deposits which individually may bear different rates of interest, and that disclosure has been furnished at the time the arrangement was established or at a later time prior to the acceptance of a particular deposit for which a subsequent initial disclosure would otherwise be required by this section.

SEC. 8. Section 5612.5 of the Financial Code, as added by Senate Bill No. 1364 of the 1981–82 Regular Session of the Legislature, is amended 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 involving robbery, burglary, theft, embezzlement, fraud, forgery, bookmaking, receiving stolen property, counterfeiting, or involving checks or credit cards or using computers.

(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. If, upon evaluation of the criminal history information received pursuant to this section, the savings and loan association determines that employment of the applicant would constitute an unreasonable risk to the savings and loan association or its customers, the applicant may be denied employment.

(c) A request for records pursuant to this section made of the

Department of Justice shall be on a form approved by the department. The department may charge a fee to be paid by the requesting savings and loan association pursuant to subdivision (e) of Section 11105 of the Penal Code. No request shall be submitted without the written consent of the applicant.

(d) Any criminal history information obtained pursuant to this section is confidential and no recipient shall disclose its contents other than for the purpose for which it was acquired.

SEC. 9. Section 6601 of the Financial Code is amended to read:

6601. An association shall maintain information about: (1) the amount or, if no amount can be stated, the method of determining the amount of each charge which the association may impose on an account; (2) the rate of interest, the annual yield, and method that will be used in computing and paying interest on the account, if any, including any provision for nonpayment of interest on deposits made after the beginning of the interest payment period or withdrawn before the end of such period; and (3) the effective date thereof. The information shall be available to the public at each office in California at which such accounts are maintained in one or both of the following ways: (1) in written materials displayed and available to the public in an area of the association open to the public; or (2) in any form of communication; provided that written materials displayed in an area of the association open to the public tell now to get the information.

SEC. 10. Section 6602 of the Financial Code is amended to read:

6602. (a) Except as hereafter provided, prior to the time of accepting the initial deposit into an account, an association shall furnish a written statement or statements to the depositor, which the depositor may retain, setting forth the information described in Section 6601.

If the depositor is not physically present at a branch office of the association at the time the initial deposit is accepted and the written statement has not been furnished previously, the association shall deliver the written statement to the depositor personally, or mail or deliver it to the depositor at the address shown on the records of the association for that account, not later than 10 days after the date of the initial deposit.

(b) (1) Except as provided in subdivision (c), before any charge which has been disclosed in a statement furnished to a depositor is increased for that account, or any charge which has not been disclosed in a statement furnished to a depositor is imposed on that account, or any charge is imposed on an account if a statement has not been furnished as required by subdivision (a), the association shall deliver to the depositor personally, or mail or deliver to the depositor at the address shown on the records of the association for that account, a written statement or statements disclosing the increased charge or new charge in the manner provided in subdivision (a), or the written statement or statements required by subdivision (a), not less than 15 days prior to the date on which the

charge is to be increased or first imposed unless such charge or change therein is required by law or regulation.

(2) Except with respect to an account in which the rate of interest may vary, or as provided in subdivision (c), before an association makes a change in the rate of interest or the method or frequency of computing or paying interest such that the annual yield will be less favorable to a depositor than under the previous rate, method, or frequency, the association shall deliver to the depositor personally, or mail or deliver to the depositor at the address shown on the records of the association for that account, a written statement or statements disclosing such change not less than 15 days prior to the effective date of such change, unless such change is required by law or regulation.

(c) With respect to an account established prior to July 1, 1977, unless previously furnished, an association shall deliver to its depositors personally, or mail or deliver to its depositors at the address shown on the records of the association not later than January 31, 1978, a current written statement or statements disclosing the information described in Section 6601 which is in effect at that time.

(d) If there is more than one depositor with respect to an account, the association need furnish the information required by this section to only one of them.

(e) An unincorporated association of natural persons may execute a written waiver of the requirements of this section when establishing an account which provides for specially negotiated arrangements with respect to the charges, interest rate, and method or frequency of computing and paying interest applicable to such account.

(f) For the purposes of the second paragraph of subdivision (a), an association is not required to make subsequent initial disclosures solely because a depositor makes or authorizes subsequent deposits which individually may bear different rates of interest notwithstanding that federal or state law or regulation treat such deposits as separate accounts, if the deposits are made or authorized in accordance with an arrangement contemplating a series of deposits which individually may bear different rates of interest, and that disclosure has been furnished at the time the arrangement was established or at a later time prior to the acceptance of a particular deposit for which a subsequent initial disclosure would otherwise be required by this section.

SEC. 11. Section 7412 of the Financial Code is amended to read:

7412. (a) No later than 10 days, and no sooner than 60 days prior to the maturity date of any fixed-term savings account certificate, an association 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, the depositor

shall be so informed.

(d) If, pursuant to an agreement, the fixed-term savings account certificate is renewed, the depositor shall be informed of the rate of interest and new maturity date. However, if the rate of interest is not ascertainable when the notice is sent, the notice shall state when the rate of interest will become available, and shall inform the depositor how to obtain the rate. If the rate of interest may vary over the term of the deposit, the association shall inform the depositor of the initial rate of interest, the circumstances under which such variation may occur, and the method of determining the rate of interest.

(e) It is the intent of the Legislature that associations not be precluded from supplying depositors with additional written notices of the maturity date and the new rate of interest in the event the certificate is renewed.

(f) This section is not applicable to:

(1) A fixed-term savings account certificate payable to bearer.

(2) A fixed-term savings account certificate which contemplates subsequent additions to the certificate amount having the same maturity date as the initial certificate, as to which the association has agreed to pay the balance of the certificate amount to the holder of the certificate on an annual or more frequent basis.

(3) A fixed-term savings account certificate having a fixed term of not more than ninety (90) days.

(g) For the purposes of this section, fixed-term savings account certificate includes a certificate which represents 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 certificates which represent funds deposited to the credit of an association, organization, partnership, or corporation operated for profit.

SEC. 12. Section 11110 of the Financial Code, as added by Senate Bill No. 1364 of the 1981–82 Regular Session of the Legislature, is amended 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 involving robbery, burglary, theft, embezzlement, fraud, forgery, bookmaking, receiving stolen property, counterfeiting, or involving checks or credit cards or using computers.

(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. If, upon evaluation of the criminal history information received pursuant to this section, the savings and loan association determines that employment of the applicant would constitute an unreasonable risk to the savings and loan association or its customers, the applicant may be denied employment.

(c) A request for records pursuant to this section made of the Department of Justice shall be on a form approved by the department. The department may charge a fee to be paid by the requesting savings and loan association pursuant to subdivision (e) of Section 11105 of the Penal Code. No request shall be submitted without the written consent of the applicant.

(d) Any criminal history information obtained pursuant to this section is confidential and no recipient shall disclose its contents other than for the purpose for which it was acquired.

SEC. 13. Section 14409.2 of the Financial Code, as added by Senate Bill No. 1364 of the 1981–82 Regular Session of the Legislature, is amended 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 involving robbery, burglary, theft, embezzlement, fraud, forgery, bookmaking, receiving stolen property, counterfeiting, or involving checks or credit cards or using computers.

(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. If, upon evaluation of the criminal history information received pursuant to this section, the credit union determines that employment of the applicant would constitute an unreasonable risk to the credit union or its customers, the applicant may be denied employment.

(c) A request for records pursuant to this section made of the

Department of Justice shall be on a form approved by the department. The department may charge a fee to be paid by the requesting credit union pursuant to subdivision (e) of Section 11105 of the Penal Code. No request shall be submitted without the written consent of the applicant.

(d) Any criminal history information obtained pursuant to this section is confidential and no recipient shall disclose its contents other than for the purpose for which it was acquired.

SEC. 14. Section 1155 of the Government Code is amended to read:

1155. Public officers and employees, other than state officers and employees, may authorize wage and salary deductions for deposit into an account or accounts with a state or federal savings and loan association in this state, for deposit into an account or accounts with a state chartered bank or national bank having its principal office in the State of California or for the purchase of shares in or the payment of money to any regularly chartered credit union, or for the purchase of any investment or thrift certificate issued by an industrial loan company licensed by this state. Auditors, treasurers, and other disbursing officers of any public agency other than a state agency are authorized to recognize and act upon such wage or salary assignments.

SEC. 15. Section 1156 of the Government Code is amended to read:

1156. State officers and employees may authorize deductions to be made from their salaries or wages for the payment of:

(a) Premiums on any health benefits plan provided for under Part 5 (commencing with Section 22751) of Division 5 of Title 2 of this code.

(b) Premiums on National Service Life Insurance or United States Government Converted Insurance.

(c) Dues in any bona fide association. Bona fide association means an organization which is comprised of employees and former employees of agencies of the State of California and the California State University and Colleges, and which does not have as one of its purposes representing such employees in their employer-employee relations with the state.

(d) Shares or obligations to any regularly chartered credit union.

(e) Recurrent fees or charges payable to a state agency under a collection plan approved by the Director of General Services and the State Controller.

(f) Premiums on any insurance policy or payments for any other membership benefit program sponsored by an employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

(g) Payments for insurance or other employee benefit programs sponsored by a state agency under appropriate statutory authority.

(h) Membership dues, initiation fees, and general assessments of any employee organization as defined in subdivision (a) of Section

3513, subject to the provisions of Section 3515.6.

(i) Passes, tickets, or tokens issued for a period of one month, or more, by a public transportation system.

(j) Deposits into an account with a state chartered bank or national bank having its principal office in the State of California.

(k) Deposits into an account or accounts with a state or federal savings and loan association in this state.

(*l*) The purchase of any investment or thrift certificate issued by an industrial loan company licensed by this state.

SEC. 16. Section 19835 of the Health and Safety Code is amended to read:

19835. Whenever a local ordinance authorizes or requires the furnishing of security in connection with the performance of any act or agreement required as a condition for the issuance of a building permit, the building permit applicant may provide any of the following as such security:

(a) 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.

(b) 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.

(c) Bond or bonds by one or more duly authorized corporate sureties.

(d) Any form of security which is acceptable to the local agency and specified by ordinance thereof.

SEC. 17. 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 or certificates of deposit or savings deposits in a bank licensed to do business in this state. The deposit shall be made from time to time as demanded by the commissioner and may be made with the State Treasurer, or a bank or savings and loan association authorized to engage in the trust business pursuant to Chapter 1 (commencing with Section 99) of Division 1 or Chapter 3 (commencing with Section 5500) of Division 2 of the Financial Code, or trust company pursuant to the approval of the commissioner under such rules and regulations as he 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 such insurer to be maintained under any of the

provisions of Article 1 (commencing with Section 11550), Chapter 1, Part 3, Division 2, 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 such letter until its expiration or revocation. Such 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. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The statutory holiday schedule for banks located in this state with respect to holidays which fall on a Saturday is at variance with the holiday schedule of the Federal Reserve System and that of financial institutions located in other money market centers of the nation. Sections 1 and 3 of this act would bring about this necessary conformity. In addition, new deposit accounts have been recently authorized for banks and savings and loan associations which were not contemplated at the time of enactment of existing disclosure requirements, and some of such requirements are operationally impracticable with respect to these new accounts. In order, therefore, to bring about the necessary holiday conformity for

December 25th of this year and to insure that depositors can obtain the benefit of the new deposit accounts, it is necessary that this act take effect immediately.

SEC. 19. Sections 4, 8, 12, and 13 of this act shall become operative only if Senate Bill 1364 of the 1981–82 Regular Session of the Legislature is chaptered, this bill is chaptered after Senate Bill 1364, and no other bill is chaptered after Senate Bill 1364 and before this bill which amends Sections 777, 5612.5, 11110, and 14409.2 of the Financial Code as added by Senate Bill 1364.

SEC. 20. Sections 2, 4, 8, 12, 13, 14, 15, 16 and 17 of this act shall become operative on January 1, 1983.

CHAPTER 1204

An act to amend Sections 52163 and 52171.6 of, and to add Article 3.5 (commencing with Section 44475) to Chapter 3 of Part 25 of, the Education Code, relating to schools, and making an appropriation therefor.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. This act shall be known and may be cited as the Language Development Specialist Act of 1982.

SEC. 2. Article 3.5 (commencing with Section 44475) is added to Chapter 3 of Part 25 of the Education Code, to read:

Article 3.5. Language Development Specialists

44475. The Commission for Teacher Preparation and Licensing shall adopt rules and regulations necessary for the effective administration of this article by April 1, 1984.

44476. Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this article.

(a) "Language development specialist" is a person who holds a valid regular California teaching credential, who is trained and competent in the field of English language learning and teaching, including second language acquisition and development, and who meets all of the competencies under Section 44477.

(b) "Commission" means the Commission for Teacher Preparation and Licensing.

(c) "ESOL" means an English-to-Speakers of Other Languages program for pupils of limited-English proficiency whose native or primary language is one other than English, in which the instructional techniques, assessments, materials, and approaches are directed toward the goal of developing communicative and

academic competence, and which recognizes the pupil's primary language and cultural attributes.

(d) The terms "secondary level individual program," "elementary level individual learning program," "primary language," "basic skills," "bilingual-crosscultural teacher," "bilingual-crosscultural aide," "board," "superintendent," and "pupils of limited-English proficiency" shall have the same meaning as prescribed in Section 52163.

44477. (a) The commission shall grant certificates of language development specialist competence to teachers in kindergarten through grade 12 who meet the competencies specified in this section. The commission shall certify as a language development specialist individuals who:

(1) Demonstrate the competencies specified in subdivision (b).

(2) Hold a valid California teaching credential.

(3) Meet other requirements for a credential established by the commission.

(b) The commission shall also establish language development competencies which shall include, but need not be limited to the following:

(1) Demonstrated knowledge of first and second language acquisition theories and teaching strategies, including knowledge of the elements of linguistics which apply to language learning and teaching.

(2) Demonstrated competency in teaching the English language in various educational settings.

(3) A minimum of one year of formal college level coursework in a foreign language, or its equivalent.

(4) Demonstrated knowledge of techniques to develop and reinforce language acquisition, as evidenced in a practicum.

(5) Demonstrated knowledge in the evaluation of appropriate instructional materials.

(6) Demonstrated knowledge of the purposes, limitations, and administration of language proficiency and achievement tests, including nonverbal and informal assessment techniques.

(7) Demonstrated knowledge of existing pupil identification, assessment, and language reclassification requirements.

(8) Demonstrated knowledge of the historical and contemporary status of minority groups in California.

(9) Demonstrated knowledge of and respect for the cultural and language needs of pupils.

(10) Demonstrated knowledge of the interrelationships between bilingual education and English-to-speakers of other languages methods and theories.

44478. (a) The demonstration of the competencies under Section 44477 for teachers in kindergarten through grade 12 holding a valid California teaching credential may be demonstrated either through: (1) an approved college or university training program and state examination, or (2) through an evaluation by the commission

of the teacher's academic training to determine the equivalencies to the requirements for approved programs or teaching experience pursuant to subdivision (c) and the passing of the approved state examination.

(b) A college or university training program shall consist of not less than 24 approved semester units, or quarter unit equivalents, which shall include, but need not be limited to, an emphasis on the teaching of pupils of limited-English proficiency in accordance with the standards for approval established by the commission, including:

(1) The structure and role of language.

(2) Psychosocial and cultural factors in language acquisition.

(3) Theories and methods of bilingual education.

(4) Analysis of the English language for teaching purposes.

(5) Theories and methods of teaching English to speakers of other languages.

(6) Testing, diagnosis, language assessment, and evaluation.

(7) Materials for use in classes for pupils of limited-English proficiency.

(8) The practicum in teaching English to speakers of other languages. In adopting coursework standards the commission shall relate the coursework requirements to the competencies established pursuant to subdivision (b) of Section 44477.

(c) Persons holding a valid California teaching credential may make direct application to the commission for an evaluation of prior coursework or teaching experience. In order to take the state examination without prior coursework approval, a teacher shall have at a minimum either: (1) two years in a teaching assignment or its equivalent during which the major part of the assignment was spent in the provision of instruction to pupils of limited-English proficiency, or (2) one year of full-time teaching experience with pupils of limited-English proficiency, and the possession of a certificate or degree in ESOL.

(d) In order to demonstrate his or her competency under subdivision (b) or subdivision (c), a teacher shall take and pass the state examination for a language development specialist.

44479. (a) The commission shall develop a uniform state examination, with appropriate variations, which provides a method by which persons holding a valid California teaching credential may demonstrate their competence as a language development specialist.

(b) The uniform state examination for a language development specialist shall, at a minimum, consist of the following:

(1) A written examination.

(2) An oral interview.

(3) An evaluation of an ESOL teaching situation.

(c) The commission shall develop a uniform state examination and the variations, procedures, and contents thereof after consultation with organizations serving pupils of limited-English proficiency. The uniform state examination, and the variations thereof, shall be approved by the commission. State Department of

Education personnel who are familiar with bilingual education and language development, researchers, linguists, bilingual educators, and ESOL practitioners shall be consulted in the preparation of the examination contents and procedures. Costs incurred for the participation of these participants in the development of the state examination shall be borne by their respective agencies.

44480. The commission shall require that any institution desiring to establish a language development specialist program shall submit plans to the commission for review. The submitted plans may be approved or rejected by the commission.

44480.5. The Legislature recognizes that there is a need for language development specialists, as defined in subdivision (a) of Section 44476, to augment the number of bilingual-crosscultural teachers needed to develop English language skills for pupils of limited-English proficiency. Therefore, it is the intent of the Legislature that the commission shall develop the state examination for the assessment of the competencies in a timely manner and to the extent that funds are made available under priorities to be established by the commission.

44481. Fees for the state examination for a certificate of competence as a language development specialist, and any necessary rules and regulations, shall be established at a rate not to exceed the fees established for other certificates of competence. A portion of the fee, as determined by the commission, shall be used to pay for the development of the state examination.

SEC. 3. Section 52163 of the Education Code is amended to read:

52163. Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this article.

(a) "Basic bilingual education" is a system of instruction which builds upon the language skills of the pupil and which consists of, but is not limited to, all of the following:

(1) A structured English language development component with daily instruction leading to the acquisition of English language proficiency, including English reading and writing skills.

(2) A structured primary language component with daily basic skills instruction in the primary language for the purpose of sustaining achievement in basic subject areas until the transfer to English is made.

As the pupil develops English language skills, the amount of instruction offered through English shall increase.

(b) "Bilingual-bicultural education" is a system of instruction which uses two languages, one of which is English, as a means of instruction. It is a means of instruction which builds upon and expands the existing language skills of each participating pupil, which will enable the pupil to achieve competency in both languages.

This instruction shall include all of the following:

(1) Daily instruction in English language development which shall include:

(A) Listening and speaking skills.

(B) Reading and writing skills; formal instruction in reading and writing of English shall be introduced when appropriate criteria are met.

(2) Language development in the pupil's primary language, including oral and literacy skills.

(3) Reading in the pupil's primary language.

(4) Selected subjects taught in the pupil's primary language.

(5) Development of an understanding of the history and culture of California and the United States, as well as an understanding of customs and values of the cultures associated with the languages being taught.

(c) (1) "Experimental bilingual programs" are:

(A) Innovative programs which are consistent with the provisions of this article, including, but not limited to, the requirements for bilingual teaching personnel pursuant to Section 52165, and the requirements for English language and primary language development pursuant to this section. Such programs may include new management approaches, greater emphasis on team teaching, or other appropriate improvements which expand the learning opportunities of pupils of limited-English proficiency. Unless waivers of code sections are required, the board need not approve such projects. A description of each such innovative program shall be included with the consolidated application for program funding and an annual evaluation of such programs shall be included in the multiple-funded program evaluation required pursuant to Section 33403.

(B) Planned variation programs for the purpose of comparing and improving language development programs for pupils of limited-English proficiency. The primary focus shall be on appropriate instruction for pupils of limited-English proficiency whose English skills are superior to their skills in their primary language. Such program shall be authorized by the board in up to 150 classrooms in districts which are representative of the state both geographically and by size. Not more than 15 such classrooms shall be approved in any one district. Such programs shall not result in segregation. For districts proposing a planned variation program, the staffing requirements of Section 52165 may be partially or totally waived by the board provided that the district has an inadequate number of certified bilingual teachers, that certified bilingual teachers are not replaced, that present level of effort is not reduced, and that the proposed language development program is appropriate. For each participating classroom there shall be another similar classroom in the district which has fully implemented and is in compliance with the other provisions of this article.

(2) Initial guidelines, criteria, and procedures for experimental programs shall be developed by the department not later than March 1, 1981. Proposals for planned variation programs shall include, but need not be limited to:

(A) A clear statement of the purposes, goals, and objectives for planned variation programs and projected outcomes.

(B) A delineated management, staffing, and instructional plan.

(C) Pupil identification, diagnosis, and assessment procedures.

(D) Evidence of qualified bilingual and other instructional staff with demonstrated competence in language development, bicultural or multicultural knowledge of participating pupils, and instructional methodologies.

(E) Documented parent and community participation and support.

(F) Use of state and federal funding, where applicable.

(G) Evaluation component which controls for instructional treatments, instructional engaged time, staffing, pupil language characteristics, achievement, attendance, and related data.

(3) The department shall include in its annual report to the Legislature submitted pursuant to Sections 33405 and 52171.6, the number and nature of experimental bilingual and planned variation programs and the progress of participating pupils.

(4) Nothing contained in this subdivision shall be construed to permit the operation of experimental bilingual and planned variation programs contrary to the purposes or intent of this article and other state or federal statutes and regulations promulgated for and on behalf of pupils of limited-English proficiency. The primary goal of all such programs shall be to teach the pupil English.

(d) "Secondary level language development program" is a program in grades 7 to 12 which provides a prescriptive English language program that systematically develops a pupil's listening and speaking skills, knowledge of linguistic and grammatical structure leading to proficiency in reading and writing English. The prescriptive English language program shall be based on the diagnosis of a pupil's language skills pursuant to Sections 52164 and 52164.1 and shall be conducted as an integral instructional program of English curriculum for not less than one full period a day or its equivalent for the purpose of providing pupils with minimum English language competencies pursuant to subdivision (e). The primary goal of such programs shall be to teach pupils the English language.

In addition to the prescriptive English language program required by this subdivision, a secondary level language development program shall provide primary language instructional support to sustain academic achievement in nonelective content subject areas required for high school graduation consistent with current law.

Instruction in a secondary level language development program shall be provided either by a language development specialist, or by a certified bilingual-crosscultural teacher, who has received the recommendation of the local superintendent of schools verifying in writing that the teacher is competent and qualified to teach an English-as-a-second-language component, as measured by the district's personnel evaluation system.

School districts offering an instructional program pursuant to this subdivision shall not be required to provide a secondary level individual learning program, as defined in subdivision (e), but shall be required to maintain records documenting all parental notices and of the continuing evaluation of pupil needs and services.

A school district may make a secondary level language development program available to pupils enrolled in grade 6 whenever that grade is maintained by the district in a middle school comprised of any of grades 6, 7, 8, or 9.

(e) "Secondary level individual learning program" is an individualized systematic program of instruction which meets the needs of limited-English-proficient pupils and builds upon their language skills in order to develop proficiency in English. This program shall be offered in a manner consistent with the United States Supreme Court decision in Lau vs. Nichols (414 U.S. 563), the Equal Education Opportunities Act of 1974 (20 U.S.C. Sec. 1701 et seq.) and federal regulations promulgated pursuant to such court decisions and federal statutes. The primary goal of all such programs shall be to teach the pupil English.

(f) "Elementary level individual learning program" is any program of instruction for a pupil of limited-English proficiency in which any one of the three program options described in subdivision (a), (b), or (c) is individualized to meet the needs of the pupil of limited-English proficiency and is offered in a manner consistent with the requirements of this article. Such instruction shall be offered in a manner consistent with the United States Supreme Court decision in Lau v. Nichols (414 U.S. 563), the Equal Educational Opportunities Act of 1974 (20 U.S.C. Sec. 1701 et seq.), and federal regulations promulgated pursuant to such court decisions and federal statutes. The primary goal of all such programs shall be to teach the pupil English.

(g) "Primary language" is a language other than English which is the language the pupil first learned or the language which is spoken in the pupil's home.

(h) "Bilingual-crosscultural teacher" means a person who (1) holds a valid, regular California teaching credential and (2) holds either a bilingual-crosscultural certificate of proficiency or other credential in bilingual education authorized by the Commission for Teacher Preparation and Licensing or a bilingual-crosscultural specialist credential. Such a person shall be fluent in the primary language and familiar with the cultural heritage of limited-English-proficiency pupils in the bilingual classes he or she conducts. Such a person shall have a professional demonstrated working knowledge of the methodologies which are necessary to educate effectively those pupils.

(i) "Bilingual-crosscultural teacher aide" means an aide fluent in both English and the primary language of the pupil or pupils of limited-English proficiency in a bilingual-bicultural program. Such an aide shall be familiar with the cultural heritage of pupils of

limited-English proficiency in the bilingual classes to which he or she is assigned.

(j) "Board" means the State Board of Education.

(k) "Superintendent" means the Superintendent of Public Instruction.

(*l*) "Basic skills" means language arts, including, but not limited to, reading and writing, and mathematics.

(m) "Pupils of limited-English proficiency" are pupils who do not have the clearly developed English language skills of comprehension, speaking, reading, and writing necessary to receive instruction only in English at a level substantially equivalent to pupils of the same age or grade whose primary language is English. The determination of which pupils are pupils of limited-English proficiency shall be made in accordance with the procedures specified in Sections 52164 and 52164.1. Pupils who have no proficiency in their primary language are not included within this definition.

(n) "Pupils of fluent English proficiency" are pupils whose English proficiency is comparable to that of the majority of pupils, of the same age or grade, whose primary language is English.

(o) "Department" means the State Department of Education.

SEC. 4. Section 52171.6 of the Education Code is amended to read:

52171.6. (a) The superintendent shall report annually to the Legislature on bilingual education programs as part of the multiple-funded program evaluation required pursuant to Section 33403 of the Education Code. The Superintendent of Public Instruction shall coordinate the design of school district and state evaluations to minimize the data collection and reporting requirements at the school and district levels. Pupil performance data for bilingual programs may be collected and analyzed on a sample basis with appropriate controls for pupil and instructional program characteristics.

The multiple-funded program evaluation shall include:

(1) Summary of district reports submitted pursuant to subdivision (a) of Section 52170 on the number of identified pupils of limited English proficiency, funds from all sources available for programs to meet the needs of those identified pupils, and the numbers of identified pupils who are not being provided with services pursuant to subdivision (a), (b), (c), (d), (e), or (f) of Section 52163.

(2) Information on bilingual programs conducted pursuant to Section 52165, on all of the following:

(A) Numbers of limited-English proficiency and fluent-English-speaking pupils served in the program.

(B) Numbers of teachers holding bilingual credentials or certificates of competency, bilingual aides, teachers who have waivers, and language development specialists.

(C) Expenditures made from bilingual education funds by category of expenditure.

(D) Number of pupils reclassified and district level procedures for reclassification pursuant to Section 52164.6.

(E) A summary report of programs conducted pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 52163.

(3) An assessment of the educational needs of pupils of limited-English proficiency and the extent to which such needs are being met from federal, state and local efforts, pursuant to paragraph (6) of subdivision (a) of Section 52177.

(4) For pupils learning a substantive amount of the curriculum through their primary language, basic skills assessment shall be conducted in the primary language only; assessment of language proficiency shall be conducted in English.

For pupils learning through both English and the primary language, basic skills assessment shall be in English; assessment of language proficiency shall be conducted in English. Pupils participating in the individual learning plan shall be assessed as appropriate pursuant to regulations, instruction, and guidelines to be issued by the superintendent. Assessment of pupils in the primary language shall be required only to the extent that appropriate instruments are available.

(5) It is the intent of the Legislature that evaluation of programs conducted pursuant to this article shall be designed to provide the Legislature, the board, the superintendent, and program administrators at district and school levels with information necessary to assist in all of the following:

(A) Refining and improving policies, regulations, guidelines, and procedures on a continuing basis.

(B) Assessing the overall merits of local programs.

CHAPTER 1205

An act to amend Section 25345 of, and to add Section 25345.5 to, the Health and Safety Code, relating to hazardous materials.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 25345 of the Health and Safety Code, as amended by Chapter 496 of the Statutes of 1982, 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:

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

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.

(f) The tax provided for in this section shall not apply to local vector control agencies which have entered into a cooperative agreement pursuant to Section 2426 or to county agricultural commissioners if the local vector control agencies or county agricultural commissioners generate or dispose of hazardous wastes resulting from their control activities, if they comply with the recordkeeping requirements of this chapter and all of the requirements of Chapter 6.5 (commencing with Section 25100) and regulations adopted pursuant thereto.

SEC. 2. Section 25345.5 is added to the Health and Safety Code, to read:

25345.5. Neither the recordkeeping requirements of Section 25342 nor the tax provided in Section 25345 shall apply to local health officers or county agricultural commissioners if the local health officers or county agricultural commissioners are conducting voluntary hazardous waste collection programs and if the total quantities collected are limited to 1,000 kg. or less per month from all sources; provided, however, that they comply with all requirements of Chapter 6.5 (commencing with Section 25100) and regulations adopted pursuant thereto. For the purposes of this section, "voluntary hazardous waste collection program" means a program in which small quantities of hazardous wastes are received from nonindustrial sources, stored, and ultimately transferred to a licensed hazardous waste disposal site. Any hazardous waste collections in excess of 1,000 kg. per month shall be subject to all requirements of this chapter and Chapter 6.5 (commencing with Section 25100) and regulations adopted pursuant thereto, including, but not limited to, those providing for payment of taxes and recordkeeping.

CHAPTER 1206

An act to amend Section 7526.3 of the Business and Professions Code, relating to the Private Investigator Act.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 7526.3 of the Business and Professions Code is amended to read:

7526.3. An applicant, or his manager, for a license as a private patrol operator shall have had at least one year of experience as a patrolman, guard or watchman and one year of supervisory experience in the private security business, or the equivalent thereof as determined by the director.

CHAPTER 1207

An act to amend Sections 14780 and 14784 of, to add Article 5 (commencing with Section 14831) to Chapter 6 of Division 3 of Title 2 of, and to repeal Section 14617 of, the Government Code, to amend Sections 38010, 38012, and 38013 of, and to repeal Section 38022 of, the Health and Safety Code, and to amend Section 18.00 of Chapter 326 of the Statutes of 1982, relating to state agencies.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 14617 of the Government Code is repealed.

SEC. 2. Section 14780 of the Government Code is amended to read:

14780. Except as provided by Article 5 (commencing with Section 14831), all contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, and elementary school textbooks, (b) services, whether or not the same involve the furnishing or use of equipment, materials or supplies or are performed by an independent contractor, (c) the construction, alteration, improvement, repair or maintenance of property, real or personal, or (d) the performance of work or services by such state agency for or in cooperation with any person, or public body, are of no effect unless and until approved by the Department of General Services. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of such approval. 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 herein. This section and Article 5 (commencing with Section 14831) shall not apply to any contract let by the Trustees of the California State University and Colleges involving an expenditure of less than one hundred thousand dollars ($100,000) or by a department under the State Contract Act or the State College Contract Law, nor to any contract of a type specifically

mentioned and authorized to be entered into by the Department of Transportation under Section 14035 or 14035.5 of the Government Code, Sections 99316 to 99319, inclusive, of the Public Utilities Code or the Streets and Highways Code, nor any contract entered into by the Department of Transportation which is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources, nor to any contract let by the Legislature, nor to any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

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. 3. Section 14780 of the Government Code, as added by Section 6.5 of Chapter 867 of the Statutes of 1981, is amended to read:

14780. Except as provided in Article 5 (commencing with Section 14831), all contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, and elementary school textbooks, (b) services, whether or not the same involve the furnishing or use of equipment, materials, or supplies or are performed by an independent contractor, (c) the construction, alteration, improvement, repair, or maintenance of property, real or personal, or (d) the performance of work or services by such state agency for or in cooperation with any person or public body, are of no effect unless and until approved by the Department of General Services. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of such approval. 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 herein. This section and Article 5 (commencing with Section 14831) shall not apply to any contract let by a department under the State Contract Act or the State College Contract Law, nor to any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under the Streets and Highways Code, nor any contract entered into by the Department of Transportation which is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources, nor to any contract let by the Legislature, nor to any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

This section shall become operative January 1, 1987.

SEC. 4. Section 14784 of the Government Code is amended to read:

14784. The department may except from this chapter certain classes or types of contracts of any particular state agency and authorize it to enter into such contracts without submitting them for approval. Written notice of exceptions shall be given to the state

agency and the Controller.

SEC. 5. (a) The Legislature finds and declares as follows:

(1) Each year state agencies enter into a large number of contracts for the performance of work or services they require to implement and administer the programs for which they have responsibility.

(2) The system which has been established for the review and approval of contracts by the Department of General Services, the Department of Finance and the State Personnel Board is uncoordinated, time-consuming, costly and has not established accountability in the administration and management of contracts.

(3) The procedures governing contract administration do not adequately assure that state agencies establish the purpose of, and need for, contracts, award contracts through competition, and evaluate the work done by contractors.

(4) The Department of General Services was established to centralize the business management functions and services of state government, take advantage of specialized techniques and skills, provide uniform management practices, and insure a continuing high level of efficiency and economy.

(b) The Legislature, therefore, declares its intent that the Department of General Services shall have sole responsibility for supervising contracting and the administration of contracts in state government as provided in this article. It is the intent of the Legislature that the purpose of such supervision is to ensure that an orderly process for the control of the contracting function is established and that state agencies with express or implied authority to contract for the performance of work or services exercise that authority in accordance with applicable law, rules, and regulations.

SEC. 6. Article 5 (commencing with Section 14831) is added to Chapter 6 of Division 3 of Title 2 of the Government Code, to read:

Article 5. Contracts for Services

14831. The provisions of this article shall apply to all contracts entered into by any state agency for services to be rendered to the state, whether or not the same involves the furnishing or use of equipment, materials or supplies or are performed by an independent contractor. Except as provided in Section 14834, all contracts subject to the provisions of this article are of no effect unless and until approved by the Department of General Services. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of approval. This article shall apply to any state agency which by general or specific statute is expressly or impliedly authorized to enter into the transactions referred to in this section. This article shall not apply to contracts for the construction, alteration, improvement, repair, or maintenance of real property, contracts for

architectural and engineering services subject to the provisions of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1, or to contracts which are expressly excepted from the provisions of Section 14780.

14831.5. The Department of Finance may establish those controls over approval of contracts by the Department of General Services as are necessary to assure that approval is consistent with program and budgetary determinations of the Department of Finance. The controls established under this section shall not be constructed in a fashion or be construed in a manner which would authorize the Department of Finance to establish a separate program for reviewing and approving contracts in the place of, or in addition to, the program administered by the Department of General Services pursuant to this article. The Department of Finance, when it has reason to believe that a proposed contract is not in compliance with its program and budgetary determinations, may direct a state agency to transmit the contract to it for review. It is the intent of the Legislature, however, that any review of this type shall be restricted to individual contracts and shall occur only if no alternative course of action satisfactory to the Department of Finance is available.

14831.6. (a) The State Personnel Board may establish such standards and controls over approval of contracts by the Department of General Services as are necessary to assure that such approval is consistent with the merit employment principles and requirements contained in Article VII of the California Constitution. The substantive provisions of the standards shall be established at the discretion of the State Personnel Board. The specific procedures for contract review pursuant to such standards shall be established jointly by the board and the department.

It is the intent of the Legislature that except as provided in this section, the standards and controls established under this subdivision shall not be constructed in such a fashion or construed in such a manner as to authorize the State Personnel Board to establish a separate program for reviewing and approving each and every contract in the place of, or in addition to, the program administered by the Department of General Services pursuant to this article. The State Personnel Board may, when it has reason to believe that a proposed contract is not in compliance with the provisions of Section 19130, and shall, when requested to do so by an employee organization representing state employees, direct a state agency to transmit the contract to it for review.

(b) The State Personnel Board shall direct any state agency to transmit to it for review any contract proposed or executed pursuant to subdivision (a) of Section 19130, if the review has been requested by an employee organization notified pursuant to Section 19131. The review shall occur prior to any review conducted by the Department of General Services. The board shall restrict its review to the question as to whether the contract complies with the provisions of subdivision (a) of Section 19130 and any additional standards and

controls established pursuant to subdivision (a) of this section. The board may disapprove the contract only if it determines that the contract does not comply.

The board shall delegate the review of such a contract to the executive officer of the board. Within 15 days of its receipt, the executive officer shall notify the employee organization which requested the review whether he or she intends to approve or disapprove it. If the employee organization requests it, the executive officer shall grant the employee organization the opportunity to present its case against the contract and the reasons why the contract should be referred to the board for a hearing. Upon a showing of good cause by the employee organization, the executive officer shall schedule the disputed contract for a hearing before the board for the purpose of receiving evidence and hearing arguments concerning the propriety of the disputed contract. In any case, the executive officer shall approve or disapprove the contract or refer it to the board for a hearing within 30 days of its receipt. The reasons for a decision by the executive officer, or the board, approving or disapproving the contract shall be stated in writing.

(c) A contract proposed or executed pursuant to subdivision (b) of Section 19130 shall be reviewed by the State Personnel Board if the board receives a request to conduct such a review from an employee organization representing state employees. Any such review shall be restricted to the question as to whether the contract complies with the provisions of subdivision (b) of Section 19130. The board shall delegate the review of such a contract to the executive officer of the board. If the employee organization requests it, the executive officer shall grant the employee organization the opportunity to present its case against the contract and the reasons why the contract should be referred to the board for a hearing. Upon a showing of good cause by the employee organization, the executive officer shall schedule the disputed contract for a hearing before the board for the purpose of receiving evidence and hearing arguments concerning the propriety of the disputed contract. The executive officer shall approve or disapprove the contract or refer it to the board for a hearing within 30 days of its receipt. The reasons for the decision by the executive officer, or the board, approving or disapproving the contract shall be stated in writing.

(d) Contracts subject to State Personnel Board review under this section shall not become effective unless and until approval is granted.

14832. State agencies which enter into contracts subject to the provisions of this article shall document the need for each contract on a form prescribed by the Department of General Services. The agency shall do all of the following:

(1) Identify and fully describe the specific problem, administrative requirement, program need, or other circumstance the contract is intended to address and which makes the contract necessary.

(2) State the specific intended purpose of the contract and describe the services or product which will result.

(3) Describe how the agency will use the contract product and how that use will fill the need which makes the contract necessary.

(4) State the basis for the agency's determination that contracting is the most effective method for achieving the agency's purpose.

(5) Transmit the completed form to the Department of General Services.

14832.1. (a) Subject to the provisions of Section 14833.2, no state agency shall draft, or cause to be drafted, any invitation to bid or request for proposal, in connection with the awarding of a contract, in such a manner as to limit the bidding directly or indirectly to any one bidder.

(b) Any contract awarded in violation of subdivision (a) shall be void.

14832.2. (a) Except as provided by subdivision (b), state agencies shall secure at least three competitive bids or proposals for each contract.

(b) Three competitive bids or proposals are not required in any of the following cases:

(1) In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.

(2) When the agency awarding the contract has advertised the contract in the California State Contracts Register and has solicited all potential contractors known to the agency but has received less than three bids or proposals.

(3) The contract is with another state agency or with a local governmental entity.

(4) The contract meets the conditions prescribed by the Department of General Services pursuant to subdivision (a) of Section 14833.2.

(c) Any agency which has received less than three bids or proposals on a contract shall document, in a manner prescribed by the Department of General Services, the names and addresses of the firms or individuals it solicited for bids or proposals.

14832.5. Whenever a contract subject to the provisions of this article is awarded under a procedure which provides for competitive bidding, the bids shall be publicly opened at the time stated in the invitation for bids and the dollar amount of each bid shall be read. No bids shall be considered which have not been received at the place, and prior to the closing time for bids, stated in the invitation for bids.

14832.6. After opening, all bids shall be available for public inspection.

14832.7. Whenever a contract is awarded under a procedure which provides for competitive bidding, but the contract is not to be awarded to the low bidder, the low bidder shall be notified by telegram five working days prior to the award of the contract. Upon

written request by any bidder who has submitted a bid, notice of the proposed award shall be posted in a public place in the offices of the contracting agency at least five working days prior to awarding the contract. If, prior to the award, any bidder files a protest with the state agency against the awarding of the contract on the ground that he or she is the lowest responsible bidder meeting the specifications for the contract, the contract shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter.

Within five days after filing the protest, the protesting bidder shall file with the department a full and complete written statement specifying the grounds for the protest.

The Department of General Services shall establish written procedures for deciding protests.

14832.8. (a) Contracts subject to the provisions of this article may be awarded under a procedure which makes use of a request for proposal. State agencies which use this procedure shall include in the request for proposal a clear, precise description of the work to be performed or services to be provided, a description of the format which proposals shall follow and the elements they shall contain, the standards the agency will use in evaluating proposals, the date on which proposals are due and the timetable the agency will follow in reviewing and evaluating them.

State agencies which use a procedure which makes use of a request for proposal shall evaluate proposals and award contracts in accordance with the provisions of either subdivision (b) or subdivision (c). No proposals shall be considered which have not been received at the place, and prior to the closing time, stated in the request for proposal.

(b) State agencies which use the evaluation and selection procedure in this subdivision shall include in the request for proposal, in addition to the information required by subdivision (a), a requirement that bidders submit their proposals with the bid price and all cost information in a separate, sealed envelope.

Proposals shall be evaluated and the contract awarded in the following manner:

(1) All proposals received shall be reviewed to determine those which meet the format requirements and the standards specified in the request for proposal.

(2) The sealed envelopes containing the bid price and cost information for those proposals which meet the format requirements and standards shall then be publicly opened and read.

(3) The contract shall be awarded to the lowest responsible bidder meeting the standards.

(c) State agencies which use the evaluation and selection procedure in this subdivision shall include in the request for proposal, in addition to the information required by subdivision (a), a description of the methods which will be used in evaluating and scoring the proposals.

Proposals shall be evaluated and the contract awarded in the following manner:

(1) All proposals shall be reviewed to determine which meet the format requirements specified in the request for proposal.

(2) All proposals meeting the formal requirements shall then be submitted to an agency evaluation committee which shall evaluate and score the proposals using the methods specified in the request for proposal. All proposals and all evaluation and scoring sheets shall be available for public inspection at the conclusion of the committee scoring process.

(3) The contract shall be awarded to the bidder whose proposal is given the highest score by the evaluation committee.

(d) Nothing in this section shall require the awarding of the contract if no proposals are received containing bids offering a contract price which in the opinion of the state agency is a reasonable price.

14832.9. Contracts awarded under the provisions of Section 14832.8 shall be awarded only after a notice of the proposed award has been posted in the offices of the contracting agency for five working days. If, prior to the award, any bidder files a protest against the awarding of the contract, the contract shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter.

Within five days after filing the protest, the protesting bidder shall file with the department a full and complete written statement specifying the grounds for the protest. Protests shall be limited to the following grounds:

(a) The agency failed to follow the procedures specified in either subdivision (b) or (c) of Section 14832.8.

(b) The agency failed to apply correctly the standards for reviewing the format requirements or evaluating the proposals as specified in the request for proposal.

(c) The agency used the evaluation and selection procedure in subdivision (b) of Section 14832.8, but is proposing to award the contract to a bidder other than the lowest responsible bidder.

(d) The agency used the evaluation and selection procedure in subdivision (c) of Section 14832.8, but failed to follow the methods for evaluating and scoring the proposals specified in the request for proposal.

(e) The agency used the evaluation and selection procedure in subdivision (c) of Section 14832.8, but is proposing to award the contract to a bidder other than the bidder given the highest score by the agency evaluation committee.

The Department of General Services shall establish written procedures for deciding protests under this section.

14833. Contracts may provide for progress payments to contractors for work performed or costs incurred in the performance of the contract, provided that not less than 10 percent of the contract amount shall be withheld pending final completion of the contract

and an evaluation of the contractor's performance and work product, as required by Section 14833.1.

No state agency shall make progress payments on a contract unless it first has established procedures, approved by the Department of General Services, which will ensure that the work or services contracted are being delivered in accordance with the contract.

14833.1. Each state agency shall conduct an evaluation of each contract awarded. The evaluation shall be prepared within 30 days of completion of the contract and shall have two purposes, as follows:

(a) An evaluation of the performance of the contractor in doing the work or delivering the services for which the contract was awarded. The agency shall report on all of the following:

(1) Whether the contracted work or services were completed as specified in the contract.

(2) Whether the contracted work or services met the quality standards specified in the contract.

(3) Whether the contractor fulfilled all the requirements of the contract.

(4) Factors outside the control of the contractor which caused difficulties in contractor performance.

(5) Other information as may be required by the Department of General Services.

The evaluation shall be carried out on a form prescribed by the Department of General Services and one copy shall be filed with the department within 30 days of the completion of the contract.

(b) An evaluation of the contracted work or services in furthering the objectives of the contracting agency. The agency shall do all of the following:

(1) Evaluate the contract product or services rendered in light of the specific problem, administrative requirement, program need, or other circumstances which made the contract necessary.

(2) Evaluate the use of the contract product by the agency.

14833.2. The Department of General Services shall prescribe the following:

(a) The conditions under which a contract may be awarded without competition, and the methods and criteria which shall be used in determining the reasonableness of contract costs when a contract is awarded without competition.

(b) Any special requirements for evaluating multiple-year contracts which the department deems necessary to protect the financial interest of the state.

14833.5. The Department of Personnel Administration shall establish a program for training state agency contracting personnel in contract administration and contract management. The cost of training state agency contracting personnel shall be paid by state agencies out of their appropriations for personnel training. The Department of Personnel Administration shall, prior to establishing the training program required by this section, consult with the Department of General Services concerning the training curriculum

and the development of a training manual on contract administration.

14833.6. The department shall report to the Legislature, in accordance with such procedures as the Legislature may require, those contracts entered into by state agencies which the Legislature specifies in the Budget Act.

14834. (a) The Department of General Services shall exempt from its approval contracts under fifty thousand dollars ($50,000) awarded by any state agency which are of a class or type that the department finds may be entered into without the department's approval. Exemptions shall be granted to any state agency which:

(1) Designates an agency officer as responsible and directly accountable for the agency's contracting program.

(2) Establishes written policies and procedures and a management system which will ensure that agency contracting activities comply with applicable provisions of law and regulations.

(3) Establishes a plan for ensuring that contracting personnel are adequately trained in contract administration and contract management.

(4) Conducts an annual internal audit of the contracting program and reports to the department as it may require.

(5) Establishes procedures for reporting to the department and the Legislature on such contracts as the Legislature may require in the Budget Act.

(b) Any state agency may request the Department of General Services to exempt from its approval classes or types of contracts under this section. When the department receives such a request but refuses to grant the exemption, it shall state in writing the reasons for the refusal. It is the intent of the Legislature that the department shall actively implement the provisions of this section and shall exempt from its approval as wide a range of classes or types of contracts as is consistent with proper administrative controls and the best interests of the state.

(c) This section shall become operative on July 1, 1983.

14834.1. (a) The department shall conduct an audit at least once in each three-year period of the contracting program of any state agency which has been granted the exemption provided by Section 14834.

(b) The exemption provided by Section 14834 may be withdrawn by the department at any time that the department finds that the state agency to which the exemption has been granted is out of compliance with the requirements of Section 14834. In any case where the exemption is withdrawn, the department shall state in writing, the reasons for the withdrawal and shall specify the actions the state agency is required to take before the exemption again may be requested.

SEC. 6. Section 38010 of the Health and Safety Code is amended to read:

38010. To the extent that the provisions of this division differ

from the provisions of Chapter 6 (commencing with Section 14780) of Division 3 of Title 2 of the Government Code, this division shall prevail.

SEC. 7. Section 38012 of the Health and Safety Code is amended to read:

38012. The Department of General Services shall review and approve contracts in accordance with the provisions of Article 5 (commencing with Section 14831) of Chapter 6 of Division 3 of Title 2 of the Government Code.

SEC. 8. Section 38013 of the Health and Safety Code is amended to read:

38013. The Department of Finance shall review and approve contracts in accordance with the provisions of Section 14831.5 of the Government Code.

SEC. 9. Section 38022 of the Health and Safety Code is repealed.

SEC. 10. Section 18.00 of Chapter 326 of the Statutes of 1982 is amended to read:

Sec. 18.00. Notwithstanding any statutes, regulations or state policy to the contrary, all contracts and interagency agreements for consultant or personal services, except such contracts as are expressly excluded below, shall, upon demand of the Department of Finance, be subject to the review and approval of the Department of Finance. The Director of General Services shall, within 30 days of approving any such contract, so notify the Chairperson of the Joint Legislative Budget Committee.

The following types of contracts are excluded from the provisions of this section.

(a) Contracts that require payment of less than twenty thousand two hundred dollars ($20,200) per party per 12-month period.

(b) Contracts for hearing reporter services.

(c) Contracts for employer training programs which provide on-the-job training for workers.

(d) Contracts for rehabilitation services entered into by the Department of Rehabilitation.

(e) Contracts for maintenance or service of equipment.

(f) Contracts for electronic data-processing services reported under Section 4 of this act.

(g) Contracts related to any type of construction.

(h) Contracts for community mental health training entered into by the Centers for Training in Community Psychiatry, Department of Mental Health.

(i) Contracts for library services entered into by the Department of Education.

(j) Contracts for family planning contraceptive services entered into by the Department of Health Services.

(k) Contracts with local agencies for administration of the Special Supplemental Food Program for Women, Infants, and Children.

(*l*) Contracts implementing the Welfare Reform Act, 1971, Career Opportunities Development Program, which provide

on-the-job training for workers or which provide matching funds for on-the-job training for workers.

(m) Contracts for the Office of Economic Opportunity Weatherization Program entered into by the Employment Development Department.

(n) Contracts for transportation services for the elderly and handicapped entered into by the Department of Transportation pursuant to Section 16(b) (2) of the Mass Transportation Act of 1964, as amended.

(o) Contracts for childhood immunization services entered into by the Department of Health Services.

(p) Contracts for entertainment at fairs conducted by district agricultural associations.

CHAPTER 1208

An act to amend Section 14784 of, to add Article 4 (commencing with Section 14830) to Chapter 6 of Part 5.5 of Division 3 of Title 2 of, and to repeal Sections 14830.4 and 14830.6 of, the Government Code, relating to state government.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 14784 of the Government Code is amended to read:

14784. The department may except from this chapter certain classes or types of contracts of any particular state agency and authorize it to enter into such contracts without submitting them for approval. Written notice of exceptions shall be given to the state agency and the Controller.

SEC. 2. Article 4 (commencing with Section 14830) is added to Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

Article 4. Consulting Services Contracts

14830. The Legislature of the State of California hereby finds and declares there is a present and growing need to reduce state fiscal expenditures, whenever and wherever it is practicable to do so.

The Legislature further finds and declares that fees for consulting services contracts are a major budget item for many departments and agencies.

The Legislature further finds and declares that many agencies are awarding consulting services contracts without adequate competition; that there are inadequate controls over payments for

consulting services contracts; that there is sometimes improper administration of consulting services contracts; that reports produced by consulting services contracts are often not used; and that there is inaccurate reporting of consulting services contracts.

Therefore, in order to achieve accountability and reduced fiscal expenditures, it is the intent of the Legislature, in enacting this article, to ensure the development of methods of applying cost-benefit standards, standards of initial merit for awarding consulting services contracts, and standards for determining product benefit of such contracts.

14830.1. (a) "Consulting services contract," as used in this article, means all services which are of an advisory nature, provide a recommended course of action or personal expertise, have an end product which is basically a transmittal of information either written or verbal and which is related to the governmental functions of state agency administration and management and state agency program management or innovation, and which are obtained by awarding a procurement-type contract.

The product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

(b) "Consulting services contract" does not include any of the following:

(1) Contracts between a state agency or department and the federal government.

(2) Contracts with local agencies, as defined in Section 2211 of the Revenue and Taxation Code, to subvene federal funds for which no matching state funds are required.

(3) Contracts for the development, maintenance, administration, or use of licensing or proficiency testing examinations.

(4) Contracts for architectural and engineering services subject to the provisions of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1.

(5) Contracts which are expressly excepted from the provisions of Section 14780.

(6) Contracts entered into by the California State University.

(c) The following consulting services contracts are exempt from the advertising and bidding requirements of this article:

(1) Contracts which are temporary or time-limited appointments to a nontesting civil service classification for the purpose of meeting a time-limited employment need. Selection and compensation for these appointments shall be made in accordance with state civil service requirements. Payment under a consulting service contract may be on the basis of each hour or day devoted to the task or in one lump sum for the end product.

(2) Contracts that can only be performed by a public entity as defined in subdivision (b) of Section 605 of the Unemployment Insurance Code.

(3) Contracts for the work or services of one state, local, or federal agency by another state, local, or federal agency.

(4) Contracts for which only per diem and travel expenses are paid and there is no payment for services rendered.

(5) Contracts solely for the purpose of obtaining expert witnesses for litigation.

(6) Contracts for legal defense, legal advice, or legal services.

14830.2. "State agency or department" as used in this article, means every state office, department, division, bureau, board, or commission, but does not include the Legislature, the courts, or any agency in the judicial branch of government.

14830.3. (a) Each state agency or department shall designate at least one currently existing person or position within the state agency or department as a contract manager. Every contract manager shall have knowledge of legal contractual arrangements.

(b) The Department of Personnel Administration shall establish a program for training state agency contracting personnel in contract administration and contract management. The cost of training state agency contracting personnel shall be paid by state agencies out of their appropriations for personnel training. The Department of Personnel Administration shall, prior to establishing the training program required by this section, consult with the Department of General Services concerning the training curriculum and the development of a training manual on contract administration.

14830.4. (a) Beginning on January 1, 1983, and each quarter thereafter, each state agency and department shall prepare a report pursuant to this section which includes a list of the consultant contracts into which it has entered during the previous three months or the period otherwise specified by this section. The listing shall include the following information:

(1) The name and identification of each contractor.

(2) The type of bidding entered into, the number of bidders, whether the low bidder was accepted, and if the low bidder was not accepted, an explanation of why the contract was a sole-source contract.

(3) The amount of the contract price.

(4) Whether the contract was a sole-source contract, and why the contract was a sole-source contract.

(5) The purpose of the contract and the potential beneficiaries.

(6) The date on which the initial contract was signed, the date on which the work began and was completed.

The report shall also include a separate listing of consultant contracts completed during the quarter, with the same information as above.

(b) The report required by this section shall also include a list of any contracts underway during that quarter on which any change was made regarding the following:

(1) The completion date of the contract.

(2) The amount of money to be received by the contractor, if it exceeds 3 percent of the original contract price.

(3) The purpose of the contract or duties of the contractor. A brief explanation shall be given if the change in purpose is significant.

(c) The report due on March 30 of each year shall include the above information for each consultant contract entered into or completed during the preceding nine months, rather than the quarterly report. The June 30 report shall be an annual report of the preceding 12 months. Copies of the quarterly and annual reports shall be sent within 10 days after the end of the quarter to the Legislative Analyst, the Department of Finance, the Auditor General, the Senate Finance Committee, and the Assembly Ways and Means Committee.

(d) State agencies and departments shall not utilize the temporary budget allocation process as a means of circumventing the requirements of this section.

14830.5. All consulting services contracts are of no effect unless and until approved by the Department of General Services. Every such contract shall be transmitted with all papers, evaluation forms, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of approval.

14830.6. Except as provided in Sections 14830.7 and 14830.8, the Department of General Services shall have sole responsibility for supervising contracting, including the state agency and department application of the pre- and post-evaluation mechanism, and the administration of contracts in state government as provided in this article during the 1982–83, 1983–84, and 1984–85 fiscal years only. During this period, each consulting services contract for an amount of ten thousand dollars ($10,000) or more shall be subject to the approval of the department. It is the intent of the Legislature that the purpose of this supervision is to ensure that an orderly process for the control of the contracting function is established and that state agencies with express or implied authority to contract for the performance of work or services exercise that authority in accordance with applicable law.

This section shall remain in effect only until July 1, 1985, and on that date is repealed.

14830.7. (a) The State Personnel Board may establish such standards and controls over approval of consulting services contracts by the Department of General Services as are necessary to assure that such approval is consistent with the merit employment principles and requirements contained in Article VII of the California Constitution. The substantive provisions of the standards shall be established at the discretion of the State Personnel Board. The specific procedures for contract review pursuant to such standards shall be established jointly by the board and the department.

It is the intent of the Legislature that except as provided in this

section, the standards and controls established under this subdivision shall not be constructed in such a fashion or construed in such a manner as to authorize the State Personnel Board to establish a separate program for reviewing and approving each and every contract in the place of, or in addition to, the program administered by the Department of General Services pursuant to this article. The State Personnel Board may, when it has reason to believe that a proposed contract is not in compliance with the provisions of Section 19130, and shall, when requested to do so by an employee organization representing state employees, direct a state agency to transmit the contract to it for review.

(b) The State Personnel Board shall direct any state agency to transmit to it for review any consulting services contract proposed or executed pursuant to subdivision (a) of Section 19130, if the review has been requested by an employee organization notified pursuant to Section 19131. The review shall occur prior to any review conducted by the Department of General Services. The board shall restrict its review to the question as to whether the contract complies with the provisions of subdivision (a) of Section 19130 and any additional standards and controls established pursuant to subdivision (a) of this section. The board may disapprove the contract only if it determines that the contract does not comply.

The board shall delegate the review of such a contract to the executive officer of the board. Within 15 days of its receipt, the executive officer shall notify the employee organization which requested the review whether he or she intends to approve or disapprove it. If the employee organization requests it, the executive officer shall grant the employee organization the opportunity to present its case against the contract and the reasons why the contract should be referred to the board for a hearing. Upon a showing of good cause by the employee organization, the executive officer shall schedule the disputed contract for a hearing before the board for the purpose of receiving evidence and hearing arguments concerning the propriety of the disputed contract. In any case, the executive officer shall approve or disapprove the contract or refer it to the board for a hearing within 30 days of its receipt. The reasons for a decision by the executive officer, or the board, approving or disapproving the contract shall be stated in writing.

(c) A consulting services contract proposed or executed pursuant to subdivision (b) of Section 19130 shall be reviewed by the State Personnel Board if the board receives a request to conduct such a review from an employee organization representing state employees. Any such review shall be restricted to the question as to whether the contract complies with the provisions of subdivision (b) of Section 19130. The board shall delegate the review of such a contract to the executive officer of the board. If the employee organization requests it, the executive officer shall grant the employee organization the opportunity to present its case against the contract and the reasons why the contract should be referred to the

board for a hearing. Upon a showing of good cause by the employee organization, the executive officer shall schedule the disputed contract for a hearing before the board for the purpose of receiving evidence and hearing arguments concerning the propriety of the disputed contract. The executive officer shall approve or disapprove the contract or refer it to the board for a hearing within 30 days of its receipt. The reasons for the decision by the executive officer, or the board, approving or disapproving the contract shall be stated in writing.

(d) Contracts subject to State Personnel Board review under this section shall not become effective unless and until approval is granted.

14830.8. The Department of Finance may establish controls over approval of contracts by the Department of General Services which are necessary to assure that approval is consistent with program and budgetary determinations of the Department of Finance. The controls established under this section shall not be constructed in any fashion or construed in any manner which authorizes the Department of Finance to establish a separate program for reviewing and approving contracts in the place of, or in addition to, the program administered by the Department of General Services pursuant to this article. The Department of Finance may, when it has reason to believe that a proposed contract is not in compliance with its program and budgetary determinations, direct a state agency or department to transmit the contract to it for review. It is the intent of the Legislature, however, that this review shall be restricted to individual contracts and shall occur only if no alternative course of action satisfactory to the Department of Finance is available.

14830.9. (a) The Department of General Services shall exempt from its approval consulting services contracts under fifty thousand dollars ($50,000) awarded by any state agency which are of a class or type that the department finds may be entered into without the department's approval. Exemptions shall be granted to any state agency which:

(1) Designates an agency officer as responsible and directly accountable for the agency's contracting program.

(2) Establishes written policies and procedures and a management system which will ensure that agency contracting activities comply with applicable provisions of law and regulations.

(3) Establishes a plan for ensuring that contracting personnel are adequately trained in contract administration and contract management.

(4) Conducts an annual internal audit of the contracting program and reports to the department as it may require.

(5) Establishes procedures for reporting to the department and the Legislature on such contracts as the Legislature may require in the Budget Act.

(b) Any state agency may request the Department of General Services to exempt from its approval classes or types of contracts

under this section. When the department receives such a request but refuses to grant the exemption, it shall state in writing the reasons for the refusal. It is the intent of the Legislature that the department shall actively implement the provisions of this section and shall exempt from its approval as wide a range of classes or types of contracts as is consistent with proper administrative controls and the best interests of the state.

(c) This section shall become operative on July 1, 1983.

14830.10. (a) The department shall conduct an audit at least once in each three-year period of the contracting program of any state agency which has been granted the exemption provided by Section 14830.9.

(b) The exemption provided by Section 14830.9 may be withdrawn by the department at any time that the department finds that the state agency to which the exemption has been granted is out of compliance with the requirements of Section 14830.9. In any case where the exemption is withdrawn, the department shall state in writing the reasons for the withdrawal and shall specify the actions the state agency is required to take before the exemption again may be requested.

14830.11. Consulting services contracts subject to the approval of the Department of General Services shall also have approval for a modification or amendment thereto, with the following exception:

An amendment to a consulting services contract which only extends the original time for completion of performance for a period of one year or less is exempt. If the original contract was subject to approval by the Department of General Services, then one fully executed copy, with Contract Transmittal Standard Form 15, explaining the reason for the extension, shall be sent to the Legal Office of the Department of General Services. A contract may only be amended once under this exemption.

Contracts let or awarded on the basis of a law requiring competitive bidding may be modified or amended only if the contract so provides or if authorized by the law requiring competitive bidding.

If an amendment to a consulting services contract has the effect of giving the contract as amended an increase in monetary amount, or an agreement by the state to indemnify or save harmless any person, the amendment shall be approved by the Department of General Services.

14830.12. (a) On or before January 1, 1983, the Department of General Services shall prepare and submit standardized pre- and post-evaluation forms to every state agency or department. Upon receipt, each state agency or department shall use the forms to evaluate all consulting services contracts.

The Department of General Services shall devise standards and criteria for the pre- and post-evaluation forms. These standardized pre- and post-evaluation forms shall consist of a form for assessing the need and value of the consulting services contract to the state, and

a form for assessing the usability and utility of the completed consulting services contract.

(b) The Auditor General shall review the pre- and post-consulting services contract standardized form prepared by the Department of General Services for efficaciousness and communicate his or her comments to the Legislature and to the Department of General Services.

In addition, the Auditor General shall periodically, during the 1982–83, 1983–84, and 1984–85 state fiscal years, randomly select and audit contracts to determine if the contract has effectively been evaluated in accordance with the standard evaluation forms, if the contracts are cost effective, and if the pre- and post-evaluation forms are effective.

14830.13. State agencies which enter into consulting services contracts shall document the need for each contract by doing all of the following on the pre-evaluation form:

(a) Identify and fully describe the specific problem, administrative requirement, program need, or other circumstance the contract is intended to address and which makes the contract necessary.

(b) State the specific intended purpose of the contract and describe the services or product which will result.

(c) Describe how the agency will use the contract product and how that use will fill the need which makes the contract necessary.

(d) State the basis for the agency's determination that contracting is the most effective method for achieving the agency's purpose.

(e) Include a description of the product benefit and the estimated number of persons served by such a benefit.

(f) State the cost of contract, and the bidding mechanism planned.

14830.14. Each state agency shall conduct a post-evaluation of each consulting services contract which it executes by completing the post-evaluation form. The post-evaluation shall be prepared within 30 days of completion of the contract and shall have two purposes, as follows:

(a) An evaluation of the performance of the contractor in doing the work or delivering the services for which the contract was awarded. The agency shall report on all of the following:

(1) Whether the contracted work or services were completed as specified in the contract, and reasons for and amount of any cost overruns.

(2) Whether the contracted work or services met the quality standards specified in the contract.

(3) Whether the contractor fulfilled all the requirements of the contract.

(4) Factors outside the control of the contractor which caused difficulties in contractor performance.

(5) Other information as may be required by the Department of General Services.

One copy of the form shall be filed with the department within 30 days of the completion of the contract.

(b) An evaluation of the contracted consulting services in furthering the objectives of the contracting agency. The agency shall do all of the following:

(1) Evaluate the contract product or services rendered in light of the specific problem, administrative requirement, program need, or other circumstances which made the contract necessary.

(2) Evaluate the use of the contract product by the agency.

14830.15. (a) The contractor shall be advised in writing on the standard contract form that his or her performance under the contract will be evaluated.

(b) A copy of each post-evaluation shall be sent to the legal office of the Department of General Services. These evaluations shall not be public records. The legal office shall act as a central depository for all state agencies making evaluation or desiring information on a contractor's record with the state and shall send a copy of any post-evaluation report to the director of any state agency upon receiving a written request stating the reason for the request. These post-evaluations shall remain on file for a period of 36 months only.

In addition, one copy of a standardized contractor evaluation form shall be sent to Electronic Data Processing Control and Development Office of the Department of Finance, if a consultant has performed an electronic data processing related service.

Failure to send a post-evaluation to the legal office of the Department of General Services, shall be grounds for rejection of future contracts or modification of exemptions.

14830.16. As of January 1, 1983, the following provisions shall apply to all consulting services contracts:

(a) Each state agency or department shall, regardless of the fiscal amount involved, use available private resources only when the quality of work of private resources is of at least equal quality compared with the state agency or department operated resources.

(b) Any state agency or department which enters into or expects to enter into more than one consulting services contract with the same individual, business firm, or corporation within a 12-month period for an aggregate amount of ten thousand dollars ($10,000) or more, shall notify, in writing, the Department of General Services and shall have each contract that exceeds an aggregate amount of ten thousand dollars ($10,000) approved by the Department of General Services.

(c) Each state agency or department shall, prior to signing a consulting services contract, regardless of the fiscal amount involved, prepare a detailed criteria and mandatory progress schedule for the performance of the contract and shall require each selected contractor to provide a detailed analysis of the costs of performing the contract.

(d) No consulting services contract shall be commenced prior to formal approval by the Department of General Services or, if the

department's approval is not otherwise required, by the director of the state agency or department. No payments for any consulting services contract shall be made prior to this approval of the award.

(e) No consulting services contractor shall be awarded a contract unless either of the following apply:

(1) The state agency or department has reviewed a contractor evaluation form on file with the Department of General Services in accordance with Section 14830.14.

(2) If the contractor has not performed a previous contract for any state entity, a completed resume for each contract participant who will exercise a major administrative role or major policy or consultant role, as identified by the contractor, shall be attached to the contract for public record.

(f) The Department of General Services may require special evaluation procedures for multiyear contracts between the pre-evaluation and post-evaluation otherwise required by this article, or for contracts calling for special evaluation procedures beyond the pre-evaluation and post-evaluation.

(g) Any sole-source contract for consulting services shall be listed in the State Contracts Register. The information contained in the listing shall include the contract recipient, amount, and services covered.

14830.17. (a) Subject to the provisions of Section 14830.25, no state agency shall draft, or cause to be drafted, any invitation to bid or request for proposal, in connection with the awarding of a consulting services contract, in such a manner as to limit the bidding directly or indirectly to any one bidder.

(b) Any contract awarded in violation of subdivision (a) shall be void.

14830.18. (a) Except as provided by subdivision (b), state agencies shall secure at least three competitive bids or proposals for each consulting services contract.

(b) Three competitive bids or proposals are not required in any of the following cases:

(1) In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.

(2) When the agency awarding the contract has advertised the contract in the California State Contracts Register and has solicited all potential contractors known to the agency but has received less than three bids or proposals.

(3) The contract is with another state agency or with a local governmental entity.

(4) The contract meets the conditions prescribed by the Department of General Services pursuant to subdivision (a) of Section 14830.25.

(c) Any agency which has received less than three bids or proposals on a contract shall document, in a manner prescribed by the Department of General Services, the names and addresses of the

firms or individuals it solicited for bids or proposals.

14830.19. Whenever a consulting services contract is awarded under a procedure which provides for competitive bidding, the bids shall be publicly opened at the time stated in the invitation for bids and the dollar amount of each bid shall be read. No bids shall be considered which have not been received at the place, and prior to the closing time for bids, stated in the invitation for bids.

14830.20. After opening, all bids shall be available for public inspection.

14830.21. Whenever a consulting services contract is awarded under a procedure which provides for competitive bidding, but the contract is not to be awarded to the low bidder, the low bidder shall be notified by telegram five working days prior to the award of the contract. Upon written request by any bidder who has submitted a bid, notice of the proposed award shall be posted in a public place in the offices of the contracting agency at least five working days prior to awarding the contract. If, prior to the award, any bidder files a protest with the state agency against the awarding of the contract on the ground that he or she is the lowest responsible bidder meeting the specifications for the contract, the contract shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter.

Within five days after filing the protest, the protesting bidder shall file with the department a full and complete written statement specifying the grounds for the protest.

The Department of General Services shall establish written procedures for deciding protests.

14830.22. (a) Consulting services contracts may be awarded under a procedure which makes use of a request for proposal. State agencies which use this procedure shall include in the request for proposal a clear, precise description of the work to be performed or services to be provided, a description of the format which proposals shall follow and the elements they shall contain, the standards the agency will use in evaluating proposals, the date on which proposals are due and the timetable the agency will follow in reviewing and evaluating them.

State agencies which use a procedure which makes use of a request for proposal shall evaluate proposals and award contracts in accordance with the provisions of either subdivision (b) or subdivision (c). No proposals shall be considered which have not been received at the place, and prior to the closing time, stated in the request for proposal.

(b) State agencies which use the evaluation and selection procedure in this subdivision shall include in the request for proposal, in addition to the information required by subdivision (a), a requirement that bidders submit their proposals with the bid price and all cost information in a separate, sealed envelope.

Proposals shall be evaluated and the contract awarded in the following manner:

(1) All proposals received shall be reviewed to determine those which meet the format requirements and the standards specified in the request for proposal.

(2) The sealed envelopes containing the bid price and cost information for those proposals which meet the format requirements and standards shall then be publicly opened and read.

(3) The contract shall be awarded to the lowest responsible bidder meeting the standards.

(c) State agencies which use the evaluation and selection procedure in this subdivision shall include in the request for proposal, in addition to the information required by subdivision (a), a description of the methods which will be used in evaluating and scoring the proposals.

Proposals shall be evaluated and the contract awarded in the following manner:

(1) All proposals shall be reviewed to determine which meet the format requirements specified in the request for proposal.

(2) All proposals meeting the formal requirements shall then be submitted to an agency evaluation committee which shall evaluate and score the proposals using the methods specified in the request for proposal. All proposals and all evaluation and scoring sheets shall be available for public inspection at the conclusion of the committee scoring process.

(3) The contract shall be awarded to the bidder whose proposal is given the highest score by the evaluation committee.

(d) Nothing in this section shall require the awarding of the contract if no proposals are received containing bids offering a contract price which in the opinion of the state agency is a reasonable price.

14830.23. Contracts awarded under the provisions of Section 14830.22 shall be awarded only after a notice of the proposed award has been posted in the offices of the contracting agency for five working days. If, prior to the award, any bidder files a protest against the awarding of the contract, the contract shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter.

Within five days after filing the protest, the protesting bidder shall file with the department a full and complete written statement specifying the grounds for the protest. Protests shall be limited to the following grounds:

(a) The agency failed to follow the procedures specified in either subdivision (b) or subdivision (c) of Section 14830.22.

(b) The agency failed to apply correctly the standards for reviewing the format requirements or evaluating the proposals as specified in the request for proposal.

(c) The agency used the evaluation and selection procedure in subdivision (b) of Section 14830.22, but is proposing to award the contract to a bidder other than the lowest responsible bidder.

(d) The agency used the evaluation and selection procedure in

subdivision (c) of Section 14830.22, but failed to follow the methods for evaluating and scoring the proposals specified in the request for proposal.

(e) The agency used the evaluation and selection procedure in subdivision (c) of Section 14830.22, but is proposing to award the contract to a bidder other than the bidder given the highest score by the agency evaluation committee.

The Department of General Services shall establish written procedures for deciding protests under this section.

14830.24. Contracts may provide for progress payments to contractors for work performed or costs incurred in the performance of the contract, provided that not less than 10 percent of the contract amount shall be withheld pending final completion of the contract and an evaluation of the contractor's performance and work product, as required by Section 14830.14.

No state agency shall make progress payments on a contract unless it first has established procedures, approved by the Department of General Services, which will ensure that the work or services contracted are being delivered in accordance with the contract.

14830.25. The Department of General Services shall prescribe conditions under which a contract may be awarded without competition, and the methods and criteria which shall be used in determining the reasonableness of contract costs when a contract is awarded without competition.

14830.26. (a) The Department of General Services shall insure that all state agencies and departments are kept fully informed of the department's plans and procedures for implementing the provisions of this article by June 1, 1983. The department shall make information available on implementation procedures to all interested parties.

(b) The department shall insure that every consultant services contract contains standard language that fully informs the contractor of his or her duties, obligations, and rights under this article, and any additional contractor rights and obligations which the department determines should be included.

(c) Each consulting services contract shall have a provision for settlement of contract disputes.

14830.27. The Department of General Services shall report to the Legislature, in accordance with such procedures as the Legislature may require, those contracts entered into by state agencies which the Legislature specifies in the Budget Act.

14830.28. No officer or employee in the state civil service or other appointed state official shall engage in any employment, activity, or enterprise which is sponsored or funded, or sponsored and funded, by any state agency or department through or by a consulting services contract unless the employment, activity, or enterprise is required as a condition of the officer's or employee's regular state employment. No officer or employee in the state civil service shall contract on his or her own individual behalf as an independent

contractor with any state agency to provide consulting services.

14830.29. (a) No retired, dismissed, separated, or formerly employed person of any state agency or department employed under the state civil service or otherwise appointed to serve in state government may enter into a consulting services contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency or department. The prohibition of this subdivision shall apply to a person only during the two-year period beginning on the date the person left state employment.

(b) For a period of 12 months following the date of his or her retirement, dismissal, or separation from state service, no person employed under state civil service or otherwise appointed to serve in state government may enter into a consulting services contract with any state agency, if he or she was employed by that state agency in a policymaking position in the same general subject area as the proposed contract within the 12-month period prior to his or her retirement, dismissal, or separation.

14830.30. Each contractor who enters into a consulting services contract with the state for ten thousand dollars ($10,000) or more, shall be assigned an identification number by the Department of General Services. Each contractor who has been assigned a number, shall list it on each consultant services contract he or she enters into with the state, regardless of the amount of the contract. In the case of a corporation or firm, the president's assigned number shall be used exclusively on each consulting services contract. The assigned number shall remain unchanged regardless of future name changes.

CHAPTER 1209

An act to amend Section 113 of, and to add Article 8.5 (commencing with Section 25198) to Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. 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, 25198.7, 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. This adjustment of fees and 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.

(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. 2. Article 8.5 (commencing with Section 25198) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 8.5. Hazardous Waste Testing Laboratories

25198. (a) The analysis of any material required by this chapter shall be performed by a laboratory certified by the department to be competent and equipped to conduct the specific type of analysis to be performed.

(b) The department may accept a laboratory certification for a hazardous waste or hazardous materials analysis issued by an agency of another state or the federal government in lieu of its own if the requirements of that certification program are no less stringent than the requirements of the certification program established by this article. With prior written approval of the department, this section may be waived when no laboratory is certified to perform the type of analysis required under this chapter or the regulations adopted pursuant to this chapter or when the department determines that a certified laboratory is unavailable to perform the analysis within a reasonable time.

(c) This section shall become operative one year after the effective date of the regulations adopted pursuant to Section 25198.2.

25198.2. (a) The department shall adopt regulations governing the criteria for certification, the certification process, and the procedures to be used by hazardous waste laboratories to analyze and identify waste samples.

(b) The regulations shall include minimum standards for the following:

(1) Types of tests to be performed.

(2) Quality assurance programs.

(3) Equipment.

(4) Methods.

(5) Personnel qualifications.

(6) Any additional requirements, not inconsistent with this chapter, as may be necessary to carry out the provisions of this chapter.

(c) Whenever feasible, the tests and laboratory procedures adopted by the department pursuant to subdivision (b) shall either be tests and procedures recognized and endorsed by professional, standard-setting or regulatory organizations, or shall be specific tests and laboratory procedures developed by the department.

25198.3. Application for certification shall be made on forms approved by the department. The department shall issue a certificate valid for two years from the date of issue to a laboratory when the department determines that the laboratory is competent and equipped to conduct the type of analysis and identification for which certification is sought. A laboratory shall apply for recertification every two years on forms approved by the department. An application for recertification shall be granted or denied according to the criteria established for original certification.

25198.4. The department may suspend, revoke, or deny a certificate upon its determination of either of the following:

(a) The laboratory is not competent or equipped to conduct hazardous waste analysis and identification.

(b) The laboratory has violated provisions of this chapter or any regulation adopted pursuant to this chapter.

25198.5. (a) In order to carry out the purpose of this article, any duly authorized representative of the department may, during the regular business hours of the laboratory, do any of the following:

(1) Enter and inspect a laboratory which is certified under this article or which has applied for certification.

(2) Inspect and copy any records, reports, test results, or other information required to carry out the provisions of this article.

(3) Photograph any waste, waste container, waste container label, equipment, waste identification process, or violation found during an inspection.

(b) All records, test results, photographs, or other information gathered by the department pursuant to subdivision (a) shall be subject to the same procedures the department establishes pursuant to Section 25173 to protect trade secrets.

(c) The department may submit proficiency test samples to a laboratory which is certified or has applied for certification under this article. The sample shall be tested in the manner specified by regulations adopted pursuant to this chapter. The results of the tests shall be sent to the department in writing within 60 days after receiving the sample. The department shall not be charged any fee for testing under this section.

25198.6. The department may publish a list of laboratories certified under this article, including the specific tests or procedures for which the laboratory is certified.

25198.7. (a) Each laboratory initially applying for certification pursuant to this article shall pay to the department an application fee of six hundred dollars ($600).

(b) Each laboratory certified pursuant to this article shall pay an annual certification fee of five hundred dollars ($500), commencing one year after the date of the laboratory's initial application for certification.

(c) Fees collected under this section shall be adjusted annually, as specified in Section 113.

(d) If a laboratory fails to pay the annual certification fee, the certificate of the laboratory shall expire.

(e) No certification fee shall be required for any laboratory operated by the state or any state agency, or by a district, city, county, or city and county or any agency of a district, city, county, or city and county.

(f) Fees collected pursuant to this section shall be paid to the Hazardous Waste Control Account in the General Fund.

CHAPTER 1210

An act to amend Sections 7151, 7512.4, 7514, 7514.2, 7521, 7523, 7550.5, and 7580 of, to amend and renumber Section 7590 of, to add Section 7054 to, to add Chapter 11.6 (commencing with Section 7590) to Division 3 of, and to repeal Section 7528.5 of, the Business and Professions Code, relating to alarm company operators, and making an appropriation therefor.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 7054 is added to the Business and Professions Code, to read:

7054. On and after January 1, 1983, the licensing provisions of this chapter do not apply to any person who performs work in the installation, maintenance, monitoring, selling, alteration, or servicing of alarm systems, as defined in subdivision (n) of Section 7590.1, and who holds an alarm company operator's license issued pursuant to Chapter 11.6 (commencing with Section 7590).

SEC. 2. Section 7151 of the Business and Professions Code is amended to read:

7151. "Home improvement" means the repairing, remodeling, altering, converting, or modernizing of, or adding to, residential property and shall include, but not be limited to, the construction, erection, replacement, or improvement of driveways, swimming pools not subject to the provisions of Section 7167, terraces, patios, landscaping, fences, porches, garages, fallout shelters, basements,

and other improvements of the structures or land which is adjacent to a dwelling house. "Home improvement" shall also mean the installation of home improvement goods or the furnishing of home improvement services.

For purposes of this chapter, "home improvement goods or services" means goods and services, as defined in Section 1689.5 of the Civil Code, which are bought in connection with the improvement of real property. Such home improvement goods and services include, but are not limited to, carpeting, texture coating, fencing, air conditioning or heating equipment, and termite extermination. Home improvement goods include goods which are to be so affixed to real property as to become a part of real property whether or not severable therefrom.

SEC. 3. 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, and armored contract carrier.

SEC. 3.5. 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. 4. 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, 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 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.

SEC. 4.5. 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. 5. Section 7514.2 of the Business and Professions Code is amended to read:

7514.2. (a) Every private investigator, private patrol operator, and any person employed and compensated by a private patrol operator, other lawful business or public agency as a security guard or patrolperson, and who in the course of such employment or business carries a deadly weapon, shall complete a course of training in the exercise of the powers to arrest and a course of training in the carrying and use of firearms. This subdivision shall not apply to armored vehicle guards hired prior to January 1, 1977. Armored vehicle guards hired on or after January 1, 1977, shall complete a course of training in the carrying and use of firearms, but shall not be required to complete a course of training in the exercise of the powers to arrest. The course of training in the carrying and use of firearms shall not be required of any employee who is not required

or permitted by a licensee to carry or use firearms. The course in the carrying and use of firearms and the course of training in the exercise of the powers to arrest shall meet the standards which shall be prescribed by the Department of Consumer Affairs. The department shall encourage restraint and caution in the use of firearms.

(b) No uniformed employee of a licensee shall carry or use any firearm unless such employee has in his or her possession a valid firearm qualification card.

SEC. 6. 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.

SEC. 6.5. 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. 7. 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 to register their name and a file copy of their state identification card with the city, county, or city and county. No fee may be charged nor may any application be required by the city, county, or city and county for such registration.

SEC. 7.5. 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. 8. Section 7528.5 of the Business and Professions Code is repealed.

SEC. 9. Section 7550.5 of the Business and Professions Code is amended to read:

7550.5. A person registered under the provisions of subdivision (f) of Section 7514 shall be deemed to be a licensee for the purposes of this article.

SEC. 9.5. Section 7550.5 of the Business and Professions Code is amended to read:

7550.5. A person registered under the provisions of subdivision (f) of Section 7514, Article 3.1 (commencing with Section 7544), Article 3.2 (commencing with Section 7545), and Article 3.4 (commencing with Section 7547) shall be deemed to be a licensee for the purposes of this article.

SEC. 10. Section 7580 of the Business and Professions Code is amended to read:

7580. The amount of fees prescribed by this chapter, unless otherwise fixed, is that fixed in the following schedule:

(a) The application fee for an original license in any classification is twenty-five dollars ($25).

(b) The application fee for an original branch office certificate is fifteen dollars ($15).

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

(d) The renewal fee shall be fixed by the director as follows:

(1) For a license as a private investigator, not more than one hundred dollars ($100).

(2) For a license as a private patrol operator, not more than two hundred dollars ($200).

(3) For a branch office certificate, not more than twenty dollars ($20).

(4) For a license as a private investigator and private patrol operator, not more than two hundred fifty dollars ($250).

(e) The application and license fee for classifications prescribed

by the director, in addition to those provided for in this chapter, and the application and license fees for a change in the type of business organization of a licensee, shall be in the amount prescribed by rule and regulation of the director.

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

(g) The fee for reexamination of an applicant or his manager is ten dollars ($10).

(h) Fees to carry out the provisions of subdivision (f) of Section 7514 shall be fixed by the director as follows:

(1) A registration fee of not more than twelve dollars ($12).

(2) A registration renewal fee of not more than ten dollars ($10).

(3) The firearms qualification fee is not more than ten dollars ($10).

(4) A firearms requalification fee of not more than ten dollars ($10).

(i) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

SEC. 11. Section 7590 of the Business and Professions Code is amended and renumbered to read:

7584. Nothing in this Chapter 11.5 shall be construed as entitling any person to practice law in this state unless he is an active member of the State Bar of California.

SEC. 12. Chapter 11.6 (commencing with Section 7590) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 11.6. ALARM COMPANIES

Article 1. General Provisions

7590. This chapter constitutes the chapter on alarm company operators and alarm agents. It may be cited as the Alarm Company Act.

7590.1. The following terms as used in this chapter have the meaning expressed in this article.

(a) "Person" means any individual, firm, company, association, organization, partnership, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Collection and Investigative Services.

(e) "Chief" means the Chief of the Bureau of Collection and Investigative Services.

(f) "Employer" means a person who employs an individual for wages or salary, lists the individual on the employer's payroll records, and withholds all legally required deductions and contributions.

(g) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the

employer's direction and control.

(h) "Employer-employee relationship" means an individual who works for another and where the individual's name appears on the payroll records of the employer.

(i) "Licensee" means a business entity, whether an individual, partnership, or corporation licensed under this chapter.

(j) "Qualified manager" means an individual who is in active control, management, and direction of the licensee's business, and who has been issued a qualified manager's certificate pursuant to this chapter.

(k) "Registrant" means any person registered or who has applied for registration under this chapter.

(*l*) "Branch office" means any location, other than the principal place of business of the licensee, which is licensed as set forth in Article 11 (commencing with Section 7599.20)

(m) "Branch office manager" means an individual designated by the qualified manager to manage the licensee's branch office and who has met the requirements as set forth in Article 11 (commencing with Section 7599.20).

(n) "Alarm system" means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.

(o) "Alarm agent" means a person employed by an alarm company operator whose duties include selling on premises, altering, installing, maintaining, moving, repairing, replacing, servicing, responding, or monitoring an alarm system, or a person who manages or supervises a person employed by an alarm company to perform any of the duties described herein.

(p) "Deadly weapon" means and includes any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles; any dirk, dagger, pistol, revolver, or any other firearm; any knife having a blade longer than five inches; any razor with an unguarded blade; or any metal pipe or bar used or intended to be used as a club.

(q) "Firearms permit" means a permit issued by the bureau, pursuant to the provisions of Article 6 (commencing with Section 7596), to a licensee, a qualified manager, or an alarm agent, to carry an exposed firearm while on duty.

(r) (1) "Advertisement" means:

(A) Any written or printed communication for the purpose of soliciting, describing, or promoting the licensed business of the licensee, including a brochure, letter, pamphlet, newspaper, periodical, publication, or other writing.

(B) A directory listing caused or permitted by the licensee which indicates his or her licensed activity.

(C) A radio, television, or similar airwave transmission which solicits or promotes the licensed business of the licensee.

(2) "Advertisement" does not include any of the following:

(A) Any printing or writing used on buildings, vehicles, uniforms,

badges, or other property where the purpose of the printing or writing is identification.

(B) Any printing or writing on communications, memoranda, or any other writings used in the ordinary course of business where the sole purpose of the writing is other than the solicitation or promotion of business.

(C) Any printing or writing on novelty objects used in the promotion of the licensee's business where the printing of the information required by this chapter would be impractical due to the available area or surface.

(s) "Residential sales agreement" means and includes an agreement between an alarm company operator and an owner or tenant for the purchase of an alarm system to be utilized in the personal residence of the owner or tenant.

7590.2. An "alarm company operator" means any person who, for any consideration whatsoever, engages in business or accepts employment to install, maintain, alter, sell on premises, monitor, or service alarm systems or who responds to alarm systems except for any alarm agent. "Alarm company operator," however, does not include a business which merely sells from a fixed location or manufactures alarm systems unless the business services, installs, sells on premises, monitors, or responds to alarm systems at the protected premises.

A person licensed as an alarm company operator may not conduct any investigation or investigations except those that are incidental to personal injury, or the theft, loss, embezzlement, misappropriation, or concealment of any property, or any other thing enumerated in this section, which he or she has been hired or engaged to protect.

7590.3. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of that employer only and where there exists an employer-employee relationship. A person so employed shall at no time carry or use any deadly weapon in the performance of his or her duties.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while the officer or employee is engaged in the performance of his or her official duties, including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency.

(c) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter.

7590.4. Every alarm company operator license, certificate, alarm agent registration, and firearm permit issued pursuant to Chapter 11.5 (commencing with Section 7512) shall continue in full force and effect upon the effective date of this chapter without interruption.

Article 2. Administration

7591. There is in the Department of Consumer Affairs a Bureau of Collection and Investigative Services. The bureau is under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter.

7591.1. The Governor shall appoint a chief of the bureau at a salary to be fixed in accordance with Section 12080.3 of the Government Code. The chief shall serve under the direction and supervision of the director.

7591.2. Every power and duty granted to or imposed upon the director under this chapter may be delegated to the chief, except that the director may not delegate authority to adopt or otherwise act upon any proposed decision of a hearing officer after a hearing under the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The chief may delegate any power or duty granted to or imposed upon him or her under this chapter to the deputy chief, to the assistant chief, or to any inspection, investigation, or auditing personnel of the bureau.

7591.3. The director, in accordance with the State Civil Service Act, and Section 159.5, may appoint and fix the compensation of such clerical, inspection, investigation, and auditing personnel, as well as an assistant chief, as may be necessary to carry out the provisions of this chapter. Except as otherwise provided in Section 159.5, all personnel shall perform their respective duties under the supervision and direction of the chief.

7591.4. The chief shall gather evidence of violations of this chapter and of any rule or regulation established under this chapter by unlicensed persons who engage in a business for which a license is required under this chapter and shall furnish the same to prosecuting officers of any county or city or city and county for the purpose of prosecuting those violations.

7591.5. It shall be the duty of the chief to initiate and conduct investigations into the business operations of alarm company operators on his or her own motion, if the alarm company operator is not operating in accordance with the provisions of this chapter, or there has been a written complaint to the bureau about the actions and conduct of the alarm company operator or his or her employees or agents.

7591.6. The director, taking into consideration the recommendations of the advisory board, may establish and enforce such rules and regulations as may be reasonable and necessary for the examination and licensing of applicants, for the conduct of licensees, and for the general enforcement of the various provisions of this chapter in the protection of the public.

7591.7. The chief or his or her designee may inspect, examine, or investigate the relevant records, books, accounts, and files created and maintained by the alarm company operator. The chief shall have access to those relevant business records, not including client

information relating to the operational integrity of the alarm system, necessary to the examination for the purpose of performing a random audit to determine compliance with the provisions of this chapter.

7591.8. The director with the concurrence of the disciplinary review committee may automatically suspend a firearm qualification card if it is determined that the continued possession of such a card by the card holder presents an undue hazard to public safety which may result in substantial injury to another.

7591.9. If, upon investigation, the chief determines that an alarm company operator, a qualified manager, or an alarm agent is in violation of Sections 7597.1, 7597.2, 7597.3, 7597.5, 7597.6, 7598.51, 7598.53, 7599.32, 7599.33, 7599.34, 7599.36, 7599.37, 7599.38, 7599.39, 7599.40, 7599.41, 7599.42, 7599.43, 7599.44, 7599.45, 7599.46, 7599.47, 7599.48, 7599.49, 7599.50, 7599.51, 7599.52, 7599.53, 7599.54, 7599.55, and 7599.58, the director may issue a citation to, and fine, the alarm company operator, qualified manager, or alarm agent. The citation and fine assessment 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. The citation shall 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 for any single investigation or audit of an alarm company operator, a qualified manager, or an alarm agent shall not exceed two thousand five hundred dollars ($2,500).

A citation and fine assessment shall inform the alarm company operator, qualified manager, or alarm agent that if he or she desires a review by the Alarm Company Operator Disciplinary Review Committee, the review shall be requested by written notice to the chief within 30 days of the issuance of the citation and assessment, as appropriate. If a review is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. A review shall be held pursuant to the provisions of Section 7591.19.

If the alarm company operator, qualified manager, or alarm agent fails to request a review or fails to pay the assessed fine within 30 days of the assessment, the director may suspend the license, certificate, or registration of the person 30 days after the assessment.

Administrative fines collected pursuant to this section shall be deposited in the Private Investigator Fund.

7591.10. (a) The director may deny a license, certificate, or registration regulated by this chapter on the grounds that the applicant has done any of the following:

(1) Knowingly made a false statement of fact required to be revealed in the application for a license.

(2) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the bureau is

permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(3) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself, herself, or another, or to substantially injure another.

(4) Done any act which if done by a licensee would be grounds for suspension or revocation of a license.

(5) Done any act without a license for which a license is required under this chapter.

(6) Been refused a license under this chapter or had a license revoked.

(7) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been suspended or revoked.

The bureau may deny a license, certificate, or registration pursuant to this section only if the crime or act is substantially related to the qualifications, functions, or duties of the license, certificate, or registration for which application has been made.

The denial of a license, certificate, or registration shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a review by the disciplinary review committee the review shall be requested within 30 days of the issuance of the denial. A review shall be held pursuant to the provisions of Section 7591.19.

(b) Notwithstanding any other provision of this chapter, no person shall be denied a license, certificate, or registration solely on the basis that he or she has been convicted of a felony, if he or she has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or solely on the basis that he or she has been convicted of a misdemeanor, if he or she has met all applicable requirements of the criteria of rehabilitation as provided in Section 7591.12.

7591.11. The bureau shall deny a firearms permit, pursuant to Section 12021 of the Penal Code, to any licensee, qualified manager, or alarm agent who has been convicted of a felony, unless the felony conviction has been reduced pursuant to Section 17 of the Penal Code or the person has been pardoned by the Governor. The licensee, qualified manager, or alarm agent shall not have a right to a review or a hearing if the denial is made pursuant to this section.

7591.12. (a) When considering the denial, suspension, or revocation of a license, certificate, or registration, for which application has been made under this chapter, the chief, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, certificate, or registration shall consider all the following criteria:

(1) The nature and severity of the act or crime under consideration as grounds for denial.

(2) Total criminal record.

(3) Evidence of any act committed subsequent to the act or crime under consideration as grounds for a denial, suspension, or revocation which also could be considered as grounds for denial under Section 7591.10.

(4) The time that has elapsed since commission of the act or crime referred to in paragraph (1) or (2).

(5) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(6) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering a petition for reinstatement of a license, certificate, or registration, the chief shall evaluate evidence of rehabilitation, considering those criteria of rehabilitation listed in subdivision (a).

7591.13. There is hereby created within the jurisdiction of the bureau, an Advisory Board on Private Security Services, hereinafter referred to as the advisory board.

The advisory board shall consist of nine members appointed by the Governor 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 he or she was appointed, whichever first occurs. Of the nine members of the advisory board, two members shall have been actively engaged in business as a licensed private patrol operator, two members shall have been in business as a licensed alarm company operator, and five members shall be public members. None of the public members shall be licensees or engaged in any business or profession in which any part of the fees, compensation, or revenue thereof is derived from any licensee and no more than one of the public members shall be actively connected with a law enforcement agency.

The Governor may remove any member of the advisory board for misconduct, incompetency, or neglect of duty.

7591.14. The advisory board shall meet at least two times each year. Meetings may be held by the advisory board at the request of the chairperson. Five members shall constitute a quorum for the transaction of business. The advisory board shall elect from its members, each for a term of one year, a chairperson, a vice chairperson, and a secretary and may appoint such committees as it deems necessary to carry out its duties. The chief, or his or her designated representative, shall attend all advisory board meetings and the chief shall attend at least two meetings of the advisory board.

7591.15. Each member of the advisory board shall receive a per diem and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of duties pursuant to Section 103.

7591.16. The advisory board shall engage in the following functions as they pertain to alarm company operators, alarm agents, private patrol operators, security guards, firearm qualification card holders, firearm training facilities, firearm training instructors, baton training facilities, and baton training instructors:

(a) Inquire into the needs of the private patrol and alarm company business, the function of the bureau, and the matter of the policy of the bureau, and shall make such recommendations with respect thereto as after consideration, may be deemed important and necessary for the welfare of the state, the welfare of the public, and the welfare and progress of the private patrol and alarm company business.

(b) Consider and make appropriate recommendations on its own initiative as to changes in, or additions to, or deletions of, rules and regulations which after consideration, may be deemed important and necessary to the private patrol and alarm company business.

(c) Assist the chief in the collection of such information and data as the chief may deem necessary to the proper administration of this chapter.

(d) Coordinate and participate in the construction and validation of the licensing and the firearm qualification written examinations; establish the minimum equivalency standards to meet the qualifications of the examinations; make recommendations, upon request of the chief concerning the issuance of licensees, certifications, registrations or qualification cards; review the renewal of firearms training facilities, firearm training instructors, baton training facilities, and baton training instructors upon request by the chief, to determine if renewal should be granted; and, coordinate and participate in the construction and validation of the powers to arrest manual, the baton training manual, the firearms training manual and update such manuals.

7591.17. The board shall appoint an Alarm Company Operator Disciplinary Review Committee.

The disciplinary review committee shall consist of three members who are actively engaged in business as licensed alarm company operators and two public members. The committee shall meet every 60 days, or more or less frequently as may be required. The members shall be paid per diem pursuant to Section 103 and shall be reimbursed for actual travel expenses. The members shall be appointed for a term of four years. The advisory board may remove any member of the disciplinary review committee for misconduct, incompetence, or neglect of duty.

7591.18. The Alarm Company Operator Disciplinary Review Committee shall perform the following functions:

(a) Affirm, rescind, or modify all appeals concerning administrative fines assessed by the bureau against alarm company operators or their employees.

(b) Affirm, rescind, or modify all appeals concerning denial, or suspension of licenses, and certificates, registrations, or permits

issued by the bureau, except denials or suspensions ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

7591.19 (a) An alarm company operator, qualified manager, or alarm agent may request a review by the Alarm Company Operator Disciplinary Review Committee to contest the assessment of an administrative fine or to appeal a denial or suspenison unless the denial or suspension is ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or in accordance with Section 7591.8.

A request for a review shall be by written notice to the chief within 30 days of the issuance of the citation and assessment, denial or suspension.

Following a review by the disciplinary review committee, the appellant shall be notified within 30 days, in writing, by regular mail, of the committee's decision.

If the appellant disagrees with the decision made by the Alarm Company Operator Disciplinary Review Committee, he or she may request a hearing as outlined in subdivision (b). A request for a hearing following a decision by the disciplinary review committee shall be by written notice to the chief within 30 days of the committee's decision.

If the appellant does not request a hearing within 30 days, the review committee's decision shall become final.

(b) An alarm company operator, qualified manager, or alarm agent may request a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if he or she contests an assessment of an administrative fine, or to appeal a denial, suspension, or revocation. A hearing may also be requested if the appellant disagrees with the decision made by the Alarm Company Operator Disciplinary Review Committee.

A request for a hearing shall be written notice to the chief within 30 days of the issuance of the decision by the review committee. A hearing pursuant to this subdivision shall be available only after a review by the review committee.

7591.20. The disciplinary review committee shall be provided all evidence used by the bureau in reaching its decision prior to hearing an appeal.

7591.21. If a license, certificate, or registration or an applicant or registrant is suspended pursuant to Section 7591.8 or 7598.12, the director shall request a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code within 10 working days of the mailing of the notice of suspension to the licensee, certificate holder, or registrant. A hearing pursuant to this section shall be held within 30 working days of the request for hearing submitted by the director. If the request for hearing is not filed within 10 working days of the

notice of suspension or if the hearing is not held within 30 working days of the request for such hearing, the suspension shall be deemed void.

Article 3. Application of Chapter

7592. No person shall engage within this state in the activities of an alarm company operator as defined in Section 7590.2, unless the person holds a valid alarm company operator's license or is exempt from the provisions of this chapter.

7592.2. Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages an unlicensed alarm company operator after being notified in writing by the bureau of the alarm company operator's unlicensed status with the bureau, is guilty of a misdemeanor, and is punishable by a fine of one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

7592.3. Any person who engages in any business regulated by this chapter, who acts as or represents himself or herself to be a licensee under this chapter, who falsely represents that he or she is employed by a licensee, or who carries a badge, identification card, or business card, or uses a letterhead or advertises that he or she is a licensee under this chapter, unless such person is licensed under this chapter, is guilty of a misdemeanor, and is punishable by a fine of one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

7592.4. A license shall not be issued to any person who has violated the provisions of Section 7592.2 or 7592.3, unless at least one year has elapsed since the date of violation.

7592.5. No person engaged in performing any service requiring a license under this chapter may bring or maintain any action in any court of this state for the collection of compensation for the performance of any act or agreement, without alleging and proving, that the person was duly licensed at all times during the performance of the act or agreement.

7592.6. Any person who knowingly falsifies fingerprints or photographs as required for any provisions of this chapter is guilty of a felony.

7592.8. 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 the city, county, or city and county from:

(a) Requiring alarm company operator licensees to meet the requirements for and obtain a business permit.

(b) Requiring alarm agents or alarm company operators, or both, to register their name and file a copy of their state issued identification card with the city, county, or city and county. No fee, other than a fee for a business license permit, may be charged nor

may any application be required by the city, county, or city and county for that registration.

(c) Enacting ordinances governing false alarm activations and responses.

(d) Requiring persons who own, lease, rent, or otherwise possess an alarm system to obtain a permit to operate the alarm system.

Article 4. Licenses

7593. An application for an alarm company operator license shall be made in writing to, and filed with, the chief in such form as may be required by the director and shall be accompanied by the original license fee prescribed by this chapter. The chief may require the submission of any other relevant information, evidence, statements, or documents.

Every application for an alarm company operator license shall state, among other things that may be required, the name of the applicant with the name under which the applicant will do business, and the location by street and number, and city of the office of the business for which the license is sought.

No license shall be issued in any fictitious name which may be confused with or which is similar to any federal, state, county, or municipal governmental function or agency or to any law enforcement agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant.

7593.1. Each individual applicant and each qualified manager, partner of a partnership, and designated officers of a corporation shall submit with the application, one personal identification form provided by the chief upon which shall appear a photograph taken within one year immediately preceding the date of the filing of the application together with two legible sets of fingerprints and personal description of each such person, respectively. The identification form shall include residence addresses and employment history for the previous five years.

7593.2. If the applicant for license is an individual, the application shall state the full name of the individual, his or her social security number, and the full residence address of the applicant and that the applicant is to be personally and actively in charge of the business for which the license is sought, or if any other qualified manager is to be actively in charge of the business, the application shall so state and set forth the name of that person. The application shall be subscribed, verified, and signed by the applicant, under penalty of perjury.

7593.3. If the applicants for license are copartners, the application shall state the true names, social security numbers, and addresses of all the general partners and the name of the partner to be actively in charge of the business for which the license is sought; or if a qualified manager other than a partner is to be actively in charge of the business then the application shall state the name and

address of that person. The application shall be subscribed, verified, and signed under penalty of perjury by all of the general partners.

7593.4. If the applicant for license is a corporation, the application shall state the true names, social security numbers, and complete residence addresses of the chief executive officer, Secretary, and the chief financial officer of the corporation. A copy of the articles of incorporation issued by the Secretary of State shall be supplied to the bureau upon request. The application shall also state the name and address of the designated person to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by a duly authorized officer of the applicant under penalty of perjury.

7593.6. No license shall be issued to any applicant pending final disposition of any disciplinary action previously filed against the person or applicant or against any qualified manager, partner, or officer of the applicant.

7593.7. The chief shall issue a pocket identification card to the owner, partners, officers, and qualified manager. The chief shall determine the form and content of the card. A photo identification card will be furnished to any owner, partner, officer, qualified manager, or branch office manager upon written request and payment of the fee prescribed by this chapter.

7593.8. The director shall issue a license, the form and content of which shall be determined in accordance with Section 164. In addition, the director shall issue a "Certificate of Licensure" to any licensee, upon request, with the fee prescribed in this chapter. A "certificate of licensure" shall include an embossed seal of the State of California and the signature of the chief or his or her designated representative.

7593.9. Each alarm company operator license, together with the current renewal certificate, if any, shall at all times be conspicuously displayed at the place of business for which the license is issued.

7593.11. Every alarm company operator license issued under this chapter shall expire at midnight on May 31 of each even-numbered year. To renew an unexpired license or certificate, the licensee shall apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter. On renewal, such evidence of renewal of the license or certificate as the director may prescribe shall be issued to the licensee. The bureau shall send to each licensee a notice of renewal at least 45 calendar days prior to the expiration of each unexpired license.

7593.12. In the event a licensee fails to renew an alarm company operator's license, the license shall be automatically canceled, but may be reinstated within 30 days of the date of cancellation upon application of the licensee and upon the payment of the reinstatement fee provided by this chapter. Reinstatement of a canceled license shall not prohibit the bringing of disciplinary proceedings for any act committed in violation of this chapter during the period the license is canceled.

7593.13. A suspended alarm company operator license is subject to expiration and shall be renewed as provided in this article, but renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

7593.14. An alarm company operator whose license has been canceled pursuant to this article, may obtain a new license only upon compliance with all of the provisions of this chapter relating to the issuance of an initial license.

Article 5. Licensed and Registered Locations

7594. A licensee desiring to operate an alarm company operator business under one or more fictitious trade names shall apply and qualify for an initial license for each fictitious trade name.

No licensee shall indicate, or cause to be indicated, in any printed matter, or in any directory or listing, that he or she conducts an alarm company operator business under any name, other than the name for which he or she is licensed.

An application for a license for an additional trade name shall be in the same form and the applicant shall meet the same requirements as for an initial license.

7594.1. A licensee desiring to operate an alarm company operator business at a location other than the principal place of business as shown on the license shall apply for a branch office registration for each additional location as set forth in this chapter.

7594.2. Every licensed business, including registered branch offices, shall be under the active charge of a qualified manager. Every licensed registered branch office shall be managed by a designated branch office manager as set forth in this chapter.

7594.3. (a) Whenever a qualified manager ceases to be in active charge of the business, the license shall be automatically suspended within 30 days unless the licensee notifies the bureau within the 30-day period of such cessation.

(b) Whenever a designated branch office manager ceases management of a registered branch office, the branch office registration shall be automatically suspended within 30 days unless the qualified manager notifies the bureau within the 30-day period of such cessation.

If the notice of cessation is filed timely, the license or branch office registration shall remain in force for a period of 30 days after the filing of the notice or for an additional period, not to exceed one year, as specified by the chief. After the 30-day period or additional period, approved by the chief, the license or registered branch office shall be automatically suspended, unless the bureau receives written notification that the license is under the active charge of a qualified manager or that a branch office manager has been designated.

A person who performs any act for which an alarm company

operator license is required during the period of a suspension is subject to the penal provisions of Article 3 (commencing with Section 7592), in addition to any other provisions of this chapter.

7594.4. Except as herein otherwise provided, no individual shall be in active charge of the business if the individual has ever had a license revoked for cause or has ever been disqualified from further employment in the alarm company operator business pursuant to this chapter, or was a qualified manager, partner, or officer of a business whose license has been revoked.

7594.5. The individual deemed to be actively in charge of the business shall be the qualified manager, as defined in this chapter, and the certificate of the qualified manager shall be prominently displayed below the alarm company operator's license. Such individual shall spend an average of 51 percent of the usual business hours in the conduct of the business at the licensed location. Such individual shall share equally with the licensee the responsibility for compliance with this chapter.

7594.6. The designated branch office manager shall spend an average of 51 percent of the usual business hours in the conduct of the business at the registered branch office location under the active management and supervision of the qualified manager.

7594.7. A licensee shall notify the chief, in writing, within 30 days after any change in his or her business address. The director may automatically suspend the license of any person who fails to notify the bureau of any change of address within 30 days.

A license suspended pursuant to this section may only be reinstated upon the payment of a twenty-five dollar ($25) fee.

7594.8. A qualified manager of a licensee's business shall notify the chief, in writing, within 30 days after any change in his or her residence address. The director may automatically suspend the license of any person who fails to notify the bureau of any change of address within 30 days.

A qualified manager certificate suspended pursuant to this section may only be reinstated upon the payment of a fee of twenty-five dollars ($25).

Article 6. Firearms Permits and Permits for Other Deadly and Nonlethal Weapons

7596. Every person licensed, registered, or designated under this chapter, who in the course of his or her employment carries a firearm, shall complete a course of training in the carrying and use of firearms and shall receive a firearms qualification card prior to the carrying of such a firearm and shall complete a course in the exercise of the powers to arrest.

7596.3. The director shall issue a firearms qualification card when all of the following conditions exist:

(a) The applicant is a licensee, a qualified manager of a licensee, a designated branch office manager of a licensee, or a registered

alarm agent.

(b) The applicant has filed with the bureau a completed application for a firearms qualification card on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct.

(c) A certified firearms training instructor certifies that the applicant has successfully completed the bureau-approved training course in the carrying and use of firearms.

(d) The applicant has provided the bureau with evidence that the applicant has completed a course in the exercise of the powers to arrest.

(e) The bureau has determined, after investigation, that the carrying and use of a firearm by the applicant, in the course of his or her duties, presents no apparent threat to the public safety, or the carrying and use of a firearm by the applicant is not in violation of Section 12021 of the Penal Code.

(f) The application is accompanied by the fee prescribed in this chapter.

7596.4. If a firearms permit is denied, the denial of the permit shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a review by the Alarm Company Operator Disciplinary Review Committee or a hearing to contest the denial, the review or hearing shall be requested within 30 days of the issuance of the denial.

A review or hearing shall be held pursuant to the provisions of Section 7591.19. However, no review or hearing shall be granted to an individual who is prohibited from carrying a firearm pursuant to Section 12021 of the Penal Code.

7596.5. The firearms qualification card shall be mailed to the applicant at the address which appears on the application. 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.

7596.6. A firearms qualification card does not authorize the holder thereof to carry a concealed weapon, as that term is defined in Section 12050 of the Penal Code.

7596.7. A firearms qualification card expires one year from the date of issuance, if not renewed. A person who wishes to renew a firearms qualification card may file an application for renewal within 60 days prior to the cards' expiration. A person whose card has expired shall not carry a firearm until he or she has been issued a renewal card by the bureau.

The director shall not renew a firearms qualification card unless all of the following conditions exist:

(a) The cardholder has filed with the bureau a completed application for renewal of a firearms qualification card, on a form

prescribed by the director, dated and signed by the applicant under penalty of perjury certifying that the information on the application is true and correct.

(b) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

(c) The applicant has taken and passed the requalification examination and has been requalified on a range by a bureau-approved training facility.

7596.12. Every person licensed, registered, or designated under this chapter, who in the course of his or her employment carries tear gas, or any other nonlethal chemical agent, shall complete the course required pursuant to Section 12403.5 of the Penal Code.

7596.13. A licensee shall not permit any employee to carry tear gas, or any other nonlethal chemical agent, prior to ascertaining that the employee is proficient in the use of tear gas or other nonlethal chemical agent. Evidence of proficiency shall include a certificate from a POST-approved or Department of Justice-approved training facility that the person is proficient in the use of tear gas or other nonlethal chemical agent.

Article 7. Prohibited Acts and Citations for Firearms, Batons, and Nonlethal Weapons

7597. The director may assess fines as enumerated in this article pursuant to Section 7591.9. Assessment of administrative fines shall be independent of any other action by the bureau or any local, state, or federal governmental agency which may result from a violation of this article.

7597.1. No licensee, qualified manager, branch office manager, or alarm agent shall carry, use, or possess a loaded or unloaded firearm in the course and scope of his or her employment, whether or not it is serviceable or operative, unless he or she has in his or her possession a valid and current firearms qualification card issued to him or her by the bureau. The card shall be shown to any peace officer or bureau representative upon demand.

A fine of twenty-five dollars ($25) may be assessed for the first violation of this section and a fine of one hundred dollars ($100) for each subsequent violation.

7597.2. No licensee, qualified manager, branch office manager, or alarm agent shall carry any inoperable, replica, or other simulated firearm.

A violation of this section shall result in a fine of twenty-five dollars ($25) for the first violation and a fine of one hundred dollars ($100) for each subsequent violation.

7597.3. No licensee, qualified manager, branch office manager, or alarm agent shall use a firearm which is in violation of law, or in knowing violation of the standards for carrying and usage of firearms, as taught in the course of training in the carrying and use of firearms, including, but not limited to:

(a) Illegally using, carrying, or possessing a dangerous weapon.
(b) Brandishing a weapon.
(c) Drawing a weapon without proper cause.
(d) Provoking a shooting incident without cause.
(e) Carrying or using a firearm while on duty under the influence of alcohol or dangerous drugs.
(f) Carrying or using a firearm of a caliber for which a bureau firearms permit has not been issued.

A fine of one hundred dollars ($100) may be assessed for the first violation of this section and a fine of five hundred dollars ($500) for each subsequent violation.

7597.5. No licensee, qualified manager, branch office manager, or alarm agent shall carry or use tear gas or any other nonlethal chemical agent in the performance of his or her duties, unless he or she has in his or her possession proof of completion of a course in the carrying and use of tear gas or other nonlethal chemical agent.

A fine of twenty-five dollars ($25) may be assessed for the first violation of this section and a fine of one hundred dollars ($100) for each subsequent violation.

7597.6. No licensee, qualified manager, branch office manager, security guard or alarm agent shall carry a concealed weapon, unless the person has been issued a concealed weapons permit by a local law enforcement agency pursuant to Section 12050 of the Penal Code.

A fine of five hundred dollars ($500) may be assessed for each violation of this section.

Article 8. Powers to Arrest and Registration of Employees

7598. For purposes of this article, a "licensee" means a licensed alarm company operator.

7598.1. Every person entering the employ of a licensee, performing the function of an alarm agent who responds to alarm systems shall complete a course in the exercise of the powers to arrest, prior to being assigned to a duty location responding to an alarm system.

Evidence of completion shall consist of certification by the licensee or instructor that the exercise of the powers to arrest course has been taught, the date the course was taught, and certification by the employee that the instruction was received. Evidence of completion of the powers to arrest shall be maintained in the licensee's employee records and made available to the bureau upon request.

A qualified manager is not required to register under this article.

7598.2. The course of training in the exercise of the power to arrest may be administered, tested, and certified by any licensee. The department may approve any person or school to teach the course in the exercise of the power to arrest. The course of training shall be approximately two hours in length and cover the following topics:

(a) Responsibilities and ethics in citizen arrest.

(b) Relationship with the public police in arrest.
(c) Limitations on security guard power to arrest.
(d) Restrictions on searches and seizures.
(e) Criminal and civil liabilities.
(1) Personal liability.
(2) Employer liability.

The department shall make available a guide book as a standard for teaching the course in the exercise of the power to arrest. The department shall encourage additional training and may provide a training guide recommending additional courses.

7598.3. No employee of a licensee performing the function of an alarm agent who responds to alarm systems shall be issued a firearms qualification card until proper certification by the instructor that the exercise of the power to arrest course has been taught and the employee's certification that the instruction was received has been delivered to the department.

7598.4. Within three working days after commencing employment, any employee performing the function of alarm agent, who is not currently registered with the bureau, shall submit to the bureau a completed application for registration, two classifiable fingerprint cards, and the appropriate registration fee. No application is required to be submitted if the employee terminated employment within the three working days. "Within three working days" means 72 hours from the time an employee is first compensated for alarm agent services by a licensee.

7598.5. The application for registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee as prescribed in this chapter.

7598.6. The application shall be verified and shall include 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 the employment commenced.

(c) A statement as to whether the employee has been convicted of a misdemeanor, excluding minor traffic violations.

(d) A statement as to whether the employee has been convicted of a felony.

7598.7. An employee of a licensee may be assigned to work with a temporary application for registration until the bureau issues a registration card or denies the application for registration. A temporary application shall be a copy of the initial application. Any alarm agent employee assigned to work must carry either a temporary application or a valid registration.

7598.8. No employee of a licensee shall carry or use a firearm unless the employee has in his or her possession a valid alarm agent registration card and a valid firearm qualification card issued pursuant to this chapter.

7598.9. The bureau, upon receipt of a criminal offense record or

record of a subsequent arrest from the California Department of Justice, shall make an immediate determination of fitness for registration of applicants for registration or firearms qualification permit, when information contained in the records of the Department of Justice makes such a determination possible. Applications for registration of those determined to be unfit shall be immediately denied.

The bureau shall keep a current and accurate record of the individuals who have applied for and been denied registration or firearms qualification permits. A listing consisting of individual names and other pertinent identifying information may be made of those individuals who have been denied. The listing may be updated bimonthly and made available to interested licensees and law enforcement agencies.

7598.11. If the chief determines that an applicant's criminal history contains arrest information for which there appears no disposition, the chief shall issue a notice to the applicant allowing the applicant 45 days for the applicant to provide documentation concerning the disposition of the arrest or arrests.

The notice shall be sent to the applicant and shall provide sufficient information to assist the applicant in complying with the chief's request. A copy of the notice shall be sent to the applicant's last known employer. If the applicant fails to respond within 45 days, the applicant's employment shall be automatically suspended until the bureau obtains the necessary documentation to approve or deny the application.

7598.12. If the chief and the disciplinary review committee determine that continued employment of an applicant or registrant, in his or her current capacity, may present an undue hazard to public safety, the licensee, upon proper notification from the chief, shall suspend the applicant or registrant from employment in that capacity until action, to approve or deny the application for registration or to suspend or revoke the registration, has become final.

7598.14. Upon approval of an application for registration, the chief shall cause to be issued to the applicant, at his or her last-known address, a registration card in a form approved by the director. A photo identification card shall be furnished upon written request of the applicant, submission of two recent photographs of the applicant, and payment of the fee prescribed by this chapter. 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.

7598.16. A licensee shall at all times be responsible for ascertaining that his or her employees subject to registration are currently registered or have made proper application for registration as provided in this article. The licensee may not have in his or her

employment a person whose registration has expired, or been revoked, denied, suspended, or canceled.

7598.17. 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, along with the renewal fee as set forth in this chapter, to the bureau for renewal of his or her registration.

The licensee shall provide to any employee information regarding procedures for renewal of registration.

An expired registration may not be renewed. A person with an expired registration may become eligible for employment, in a position for which registration is required, by applying for a new registration in the manner required of persons not previously registered.

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.

7598.18. Any applicant or registrant shall notify the chief, in writing, within 30 days after any change in his or her residence address. The director may automatically suspend the registration of any person who fails to notify the bureau of any change of address within 30 days.

Any registration suspended pursuant to this section may only be reinstated upon the payment of a fee of fifteen dollars ($15).

Article 9. Prohibited Acts and Citations for Registered Employees

7598.50. The director may assess fines as enumerated in this article pursuant to Section 7591.9. Assessment of administrative fines shall be independent of any other action by the bureau, or any local, state, or federal governmental agency, which may result from a violation of this article.

7598.51. An alarm agent shall carry on his or her person, while on duty, either a valid and current registration card or a temporary application for registration.

A fine of ten dollars ($10) may be assessed for the first violation of this section and a fine of twenty-five dollars ($25) for each subsequent violation.

7598.53. An alarm agent who responds to an alarm system shall wear a prominently displayed patch or other designation which clearly identifies the name of the licensee. An alarm agent who carries a deadly weapon while responding to an alarm system shall wear a recognizable uniform with a prominently displayed patch or other designation which clearly identifies the name of the licensee.

The uniform must be distinguishable from the uniforms worn by local regular law enforcement officers. A violation of this section may result in a fine of twenty-five dollars ($25) for each violation.

Article 10. Alarm Company Operators—Qualifications and Examination

7599. Except as otherwise provided in this chapter, an applicant for a qualified manager certificate for an alarm company operator license shall:

(a) Have had at least two years' experience in alarm company work or the equivalent thereof as determined by the chief.

A year's experience shall consist of not less than 2,000 hours of actual compensated alarm company work performed by each applicant preceding the filing of an application.

Applicants shall substantiate the claimed years and hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from employers, subject to independent verification by the chief as he or she may determine. In the event the applicant is unable to supply a written certification from an employer, the applicant may offer such other written certifications as may be properly considered by the chief. In addition, applicants shall supply such evidence for consideration, as may be required by the chief.

(b) Be at least 18 years of age.

(c) Complete and forward to the bureau an application for a qualified manager certificate for an alarm company operator license, which shall be on a form prescribed by the director and shall include the applicant's social security number. The application shall be accompanied by two recent photographs of the applicant, measuring 1¼" by 1½", with a face size no greater than 1" by 1¼", and two classifiable sets of his or her fingerprints.

(d) Pass the required examination.

(e) Pay the required application and examination fees to the chief.

7599.4. The director shall issue a qualified manager certificate to any person meeting the requirements of Section 7599. The certificate shall be posted, along with the alarm company operator license, in a conspicuous place at the principal place of business.

7599.5. Examinations shall be given at least once every other month at such places and on such specific dates as the director may from time to time determine and fix.

7599.6. In order to be eligible for an initial examination, an applicant shall have completed and filed his or her application together with the application fee prescribed by this chapter in the office of the bureau in Sacramento, California, and have his or her experience independently verified by the bureau, not later than 20 days prior to the next scheduled examination date. Applicants shall not be scheduled until a thorough investigation has been concluded

by the bureau. Applicants whose applications are not completed and filed within the time limits of this section may, at the discretion of the chief, be scheduled for the next scheduled examination.

7599.7. If an applicant fails to pass an initial examination or fails to appear as scheduled for an examination, he or she shall not be eligible for any subsequent examination except upon payment of the reexamination fee for each subsequent examination, accompanied by a completed application for reexamination duly filed within the time limits and conditions relating to applications for original examinations provided in Section 7599.6.

7599.8. All applicants shall be examined concerning their competency, experience, and qualifications by the chief. The chief may take testimony of anyone in regard thereto under oath.

7599.9. If an applicant fails to complete his or her application within one year after it has been filed, or fails to take the examination within a one-year period after becoming eligible therefor, the application shall be considered to be abandoned. An application submitted subsequent to the abandonment of a former application shall be treated as a new application.

7599.10. Every qualified manager certificate issued under this chapter shall be subject to the same renewal provisions which apply to an alarm company operator license as set forth in Sections 7593.11, 7593.12, 7593.13, and 7593.14.

Article 11. Alarm Company Operators—Licensed and Registered Locations

7599.20. For purposes of this article, "branch office" means any additional location, other than the alarm company operator's principal place of business, where the selling, monitoring, installation, or servicing of alarms is administered, directed, or controlled.

A telephone answering service or a telephone call forwarding device shall not be deemed to be a branch office.

7599.21. Any licensed alarm company operator, who maintains or proposes to maintain a branch office as defined in this article, shall apply and qualify for a branch office registration.

7599.22. The application for a branch office registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee as set forth in this chapter.

7599.23. The application shall include:

(a) The full name, address of the licensed location, telephone number at the licensed location, the name of the qualified manager, and license number of the applicant.

(b) The name and registration number of the designated branch office manager. The individual shall:

(1) Be at least 18 years of age.

(2) Be currently registered as an alarm agent.

(3) Read the Alarm Company Act and sign a statement declaring

that he or she has read the act. The statement shall be dated, signed by the qualified manager, maintained in the licensee's employee records and made available to the bureau upon request.

(c) The address of the branch office and the telephone number at the branch office.

(d) The signature of the qualified manager.

7599.24. Upon receipt of the application for a branch office registration, the chief shall issue a "Branch Office Registration." The registration shall be posted in a conspicuous place at the branch office location.

7599.25. Each branch office registration shall be managed and supervised by a designated branch office manager. However, each registered branch office and designated branch office manager is under the active management supervision of the qualified manager of the licensee. A branch office may be maintained for 60 days from the date of initial registration under the direction of the qualified manager of the licensee.

7599.29. Every branch office registration issued under this chapter shall be subject to the same renewal provisions which apply to a license as set forth in Sections 7593.11, 7593.12, 7593.13, and 7593.14.

Article 12. Alarm Company Operators—Conduct of Business, Prohibited Acts and Citations

7599.30. The director may assess fines for any violation as enumerated in this article, pursuant to Section 7591.9.

Assessment of administrative fines shall be independent of any other action by the bureau or any local, state, or federal governmental agency which may result from a violation of this article.

7599.31. For purposes of this article, "licensee" means an alarm company operator. A licensee shall at all times be responsible for those actions of his or her employees, including his or her qualified manager, performed in violation of this chapter, when acting within the course and scope of his or her employment.

7599.32. A licensee shall, within 30 days after such change, notify the bureau of any change of its officers required to be named pursuant to Section 7593.4. Applications, on forms prescribed by the director, shall be submitted by all new officers. The director may deny the application of a new officer if the director determines that the officer has committed any act which constitutes grounds for the denial of a license pursuant to Section 7591.10. A Notice of Warning may be issued for the first violation of this section and a fine of twenty-five dollars ($25) for each subsequent violation.

7599.33. No licensee shall conduct business as defined in Section 7599.20 from any location other than that location for which a license or branch office registration was issued. A violation of this section may result in a fine of twenty-five dollars ($25) for each violation.

7599.34. No licensee shall conduct a business as an individual, partnership, or corporation unless the licensee holds a valid license issued to that exact same individual, partnership, or corporation. A violation of this section may result in a fine of one hundred dollars ($100) for each violation.

7599.36. Each licensee shall maintain a file or record containing the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated. The files and records, together with usual payroll records, shall be available for inspection by the bureau, and copies thereof and information pertaining thereto or contained therein shall be submitted to the bureau upon written request. A violation concerning the maintenance of the files or records may result in a fine of twenty-five dollars ($25) for each violation.

A failure of a licensee to respond to the bureau's request to forward copies of the files or records and information pertaining thereto or contained therein within 30 days of the bureau's request may result in a fine of twenty-five dollars ($25) and ten dollars ($10) for each additional day that elapses following the 30th day.

7599.37. Each licensee shall maintain an accurate and current record of proof of completion of the course of training in the exercise of the power to arrest as required by Section 7598.1, by each of his or her employees. A violation of this section may result in a fine of twenty-five dollars ($25) for each violation.

7599.38. Each licensee shall certify an employee's completion of the course of training in the exercise of power to arrest, or obtain proof that the training has been administered by a bureau-approved training facility, prior to allowing the employee to respond to an alarm system as required by Section 7598.1. A violation of this section may result in a fine of one hundred dollars ($100) for each violation.

7599.39. Within three working days, each licensee shall verify proof of current and valid registration issued by the bureau for each employee who is subject to registration, or shall require an employee to complete and submit an application for registration after employing an individual who does not possess a current and valid registration from the bureau. "Within three working days" means 72 hours from the time an employee is first compensated for alarm agent services for a licensee. A violation of this section may result in a fine of twelve dollars ($12) for the first 10 violations and fifty dollars ($50) for each subsequent violation.

7599.40. No licensee shall allow any employee to carry a firearm or other deadly weapon without first ascertaining that the employee is proficient in the use of each weapon to be carried. A current and valid firearm qualification card which indicates the specific caliber of the firearm which may be carried shall be deemed evidence of proficiency. A firearm qualification permit is not valid unless the employee holds a valid, current registration card. With respect to other deadly weapons, evidence of proficiency shall include a certificate from a training facility, certifying that the employee is

proficient in the use of that particular deadly weapon. A violation of this section may result in a fine of two hundred fifty dollars ($250) for each violation.

7599.41. A licensee shall maintain an accurate and current record of all firearms or other deadly weapons that are in the possession of the licensee, or of any employee of the licensee, while on duty. The record shall contain the make, model, and serial number, or a description of any other deadly weapon, and the name of the person who has title of ownership. A violation of this section may result in a fine of twenty-five dollars ($25) for each violation.

7599.42. Within seven days after any violent incident, involving a dangerous weapon, which has been caused by or occurred upon a licensee or any officer, partner, qualified manager, or employee of a licensee, while acting within the course and scope of his or her employment, that results in bodily injury to any person or death of any person involved in that incident or of any discharge of a weapon, excluding any discharge which occurs on the range, the licensee or his or her manager shall mail or deliver to the chief a detailed report of the incident. The report shall describe fully the circumstances surrounding the incident, any injuries or damages incurred, the identity of all participants, and whether a police investigation was conducted. A violation of this section may result in a fine of twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each subsequent violation.

7599.43. Within seven days after receiving a final civil court judgment filed against the licensee or any officer, partner, qualified manager, or employee of a licensee for an amount of more than five hundred dollars ($500) pertaining to any act done within the course and scope of his or her employment, which may be in violation of this chapter, the licensee or his or her manager shall mail or deliver to the chief a copy of the judgment. A violation of this section may result in a fine of twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each subsequent violation.

7599.44. Every advertisement by a licensee soliciting or advertising business shall contain his or her name and license number as they appear in the records of the bureau. A violation of this section may result in a Notice of Warning for the first violation, and a fine of twenty-five dollars ($25) for each subsequent violation.

7599.45. No licensee or employee of a licensee shall enter any private building or portion thereof, excepting premises open to the public, without the consent of the owner or the person in legal possession thereof. A violation of this section may result in a fine of twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each subsequent violation.

7599.46. No licensee shall aid and abet an unlicensed alarm company operator in any activity for which a license is required. A violation of this section may result in a fine of one thousand dollars ($1,000) for each violation.

7599.47. No licensee shall transfer his or her license. This means

that no licensee shall permit an employee or agent, in his or her own name, to advertise, engage clients, furnish reports or present bills to clients, or in any manner perform any activities for which a license is required under this chapter. A violation of this section may result in a fine of one thousand dollars ($1,000) for each violation.

7599.48. No licensee, or officer, partner, manager, or employee of a licensee, shall knowingly make any false report to his or her employer or client for whom information is being obtained. A violation of this section may result in a fine of one hundred dollars ($100) for the first violation, and five hundred dollars ($500) for each subsequent violation.

7599.49. No licensee shall abandon the completion of any installation of an alarm system without legal excuse. A violation of this section may result in a fine of one hundred dollars ($100) for the first violation and five hundred dollars ($500) for each subsequent violation.

7599.50. No licensee shall willfully depart from or disregard any plans or specifications, or in the absence of specific requirements, within the plans or specifications of accepted trade standards for good and workerlike construction in any material respect and prejudicial to another, without consent of the owner or his or her duly authorized representative, and without the consent of the person entitled to have the particular installation of alarm system substantially completed in accordance with such plans and specifications. A violation of this section may result in a fine of one hundred dollars ($100) for the first violation and five hundred dollars ($500) for each subsequent violation.

7599.51. No licensee shall willfully or deliberately disregard any building laws, safety law, or labor laws of the state or any political subdivision thereof. A violation of this section may result in a fine of one hundred dollars ($100) for the first violation and five hundred dollars ($500) for each subsequent violation.

7599.52. No licensee shall fail in any material respect to complete any alarm system installation for the price stated in the contract for the alarm system. A violation of this section may result in a fine of one hundred dollars ($100) for the first violation and five hundred dollars ($500) for each subsequent violation.

7599.53. No licensee shall willfully refuse, without legal excuse, to pursue the installation of an alarm system with reasonable diligence, causing material injury to another. A violation of this section may result in a fine of one hundred dollars ($100) for the first violation and five hundred dollars ($500) for each subsequent violation.

7599.54. Every agreement, including all labor, services, and materials to be provided for the installation of an alarm system, shall be in writing. All amendments subject to the provisions of this section to an initial agreement shall be in writing. Each initial agreement shall contain, but not be limited to, the following:

(a) The name, business address, business telephone number, and license number of the licensed alarm company operator and the

registration number of any alarm agent who solicited or negotiated the agreement.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done, a description of the materials to be used, and the agreed consideration for the work.

(d) A disclosure that alarm company operators are licensed and regulated by the Bureau of Collection and Investigative Services, 1920 20th Street, Sacramento, CA, 95814.

(e) A description of the alarm system including the major components thereof and services to be provided to the purchaser once the alarm is installed, including response or monitoring services, if any.

(f) Other matters agreed to by the parties of the contract. The agreement shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and, before any work is done, the client shall be furnished with a copy of the written agreement signed by the licensee.

(g) A statement setting forth that upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system.

(h) In the event a mechanic's lien is to be utilized, a notice to owner statement 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 the office of a contractor's payment bond for private work.

(i) In addition to the above, every initial residential sales agreement, the total cost which over the time period fixed by the agreement exceeds two hundred fifty dollars ($250), including the cost of all labor, service, or material to be provided by the licensee for the installation, shall include, but not be limited to, the following:

(1) A schedule of payments showing the amount of each payment as a sum in dollars and cents. This schedule of payments shall be referenced to the amount of work for services to be performed or to any materials or equipment to be supplied.

(2) If the payment schedule contained in the agreement provides for a down payment to be paid to the licensee by the owner or the tenant before commencement of the work, that down payment shall not exceed one thousand dollars ($1,000) or 10 percent of the contract price, excluding finance charges, whichever is the lesser.

(3) In no event shall the payment schedule provide that the licensee receive, nor shall the licensee actually receive, payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the

licensee may receive an initial down payment authorized by paragraph (2). A failure by the licensee, without legal excuse, to substantially commence work within 20 days of the approximate date specified in the contract when work is to commence, shall postpone the next succeeding payment to the licensee for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur.

(4) A notice to owner statement 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 the office of a contractor's payment bond for private work.

(5) A description of what constitutes substantial commencement of work pursuant to the contract.

(6) A disclosure that failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act.

(7) This section shall not be construed to prohibit the parties to a residential alarm system sale contract from agreeing to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

A violation of this section or failure to commence work pursuant to paragraph (6) of subdivision (h) may result in a fine of one hundred dollars ($100) for the first violation and a five hundred dollar ($500) fine for each subsequent violation.

7599.55. No licensee shall make any untrue or misleading statements in connection with the business of the licensee. "Untrue or misleading statements" include, but are not limited to, a representation by an alarm company operator or agent that:

(a) An alarm system is "Underwriters Laboratory approved or listed" (UL approved or listed) unless the entire system, and not only one or more components, is in fact, UL approved or listed.

(b) An alarm system is insurance approved, police approved, or approved by the Department of Defense, unless in fact the approval has been obtained in writing.

A violation of this section may result in a fine of one hundred dollars ($100) for the first violation and a five hundred dollar ($500) fine for each subsequent violation.

7599.58. No alarm company operator shall:

(a) Knowingly install a defective alarm system.

(b) Willfully fail to service the alarm system pursuant to the terms of the warranty or service agreement.

(c) Willfully fail to notify the owner of a defective system when the alarm company operator makes a discovery of a defect in a

system after installation.

(d) Willfully fails to provide any service described in the agreement pursuant to Section 7599.54.

Notwithstanding the provisions of Section 7591.9, a violation of this section shall result in a fine of one thousand dollars ($1,000) for the first violation, and a fine of not less than two thousand five hundred dollars ($2,500), nor more than five thousand dollars ($5,000) for each subsequent violation.

Article 13. Disciplinary Proceedings

7599.60. Except as otherwise required to comply with the provisions of this chapter, the proceedings under this article shall be conducted in accordance with Section 7591.19.

7599.61. The director may suspend or revoke an alarm company operator license, a qualified manager certificate, an alarm agent registration, or a firearms permit, issued under this chapter, if the director determines that the licensee or his or her manager, if an individual, or if the licensee is a person other than an individual, or his or her employees, that any of its officers, partners, employees, or its manager, has:

(a) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated any provisions or committed any prohibited acts of this chapter.

(c) Been convicted of any felony or misdemeanor including illegally using, carrying, or possessing a dangerous weapon.

(d) Committed or permitted any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license.

(e) Committed assault, battery, or kidnapping, or used force or violence on any person, without proper justification.

(f) Violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(g) Been convicted of a violation of Section 148 of the Penal Code.

(h) Committed any act which is a ground for denial of an application for license under this chapter.

(i) Committed any act prohibited by Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 of the Penal Code.

(j) Committed any act in the course of the licensee's business constituting dishonesty or fraud.

7599.62. The director may automatically suspend a license, qualification certificate, or registration for any of the following acts:

(a) Failure to notify the bureau within 30 days that the qualified certificate holder is no longer associated with the licensee.

(b) Failure to notify the bureau within 30 days of any address change.

A license suspended under this section may be reinstated within 30 days of the date of suspension upon payment of the reinstatement fee accompanied with a reinstatement application. The director may deny the application if the director determines that the license should not be reinstated:

(a) For any reason which would justify a refusal to issue a license or a suspension or a revocation of a license.

(b) For the performance by the applicant of any practice while the license is suspended for which a license under this chapter is required.

An alarm company operator whose license has been suspended pursuant to this section and has failed to reinstate said license within 30 days may obtain a new license only upon compliance with all of the provisions of this chapter relating to the issuance of an initial license.

7599.63. The record of conviction, or a certified copy thereof, shall be conclusive evidence of conviction as that term is used in Section 7591.10.

Article 14. Revenue

7599.70. The amount of fees prescribed by this chapter is that fixed in the following schedule:

(a) A license application fee of twenty-five dollars ($25).

(b) A renewal fee for an alarm company operator license of one hundred dollars ($100).

(c) A qualified manager application fee of twenty-five dollars ($25).

(d) A renewal fee for a qualified manager of twenty-five dollars ($25).

(e) The fee for an original license is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued. However, if the license will expire less than one year after its issuance, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The director may provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(f) An original license fee and renewal fee for a branch office certificate of twenty-five dollars ($25).

(g) Notwithstanding Section 163.5, the reinstatement fee as required by Section 7593.12 shall be an amount equal to the renewal fee plus a penalty of 50 percent thereof.

(h) A fee for reexamination of an applicant for a qualified manager is ten dollars ($10).

(i) An initial registration fee for an alarm agent shall be twelve dollars ($12).

(j) A registration renewal fee for an alarm agent shall be seven

dollars ($7).

(k) A firearms qualification fee and a firearms requalification fee shall be ten dollars ($10).

(*l*) The fingerprint processing fee shall be that amount charged the bureau by the Department of Justice.

(m) The processing fee required pursuant to Sections 7593.7 and 7598.14 shall be an amount equal to the expenses incurred to provide a photo identification card.

(n) The fee for a "Certificate of Licensure" shall be twenty-five dollars ($25).

7599.71. The director shall furnish one copy of any issue or edition of the licensing law, rules and regulations, manuals, or guides to any applicant or licensee without charge. The director shall charge and collect a fee equivalent to the cost of producing such laws, rules and regulations, manuals, or guides, plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person. All moneys derived, pursuant to this section except for any sales tax collected, are hereby continuously appropriated to the bureau to cover the costs of producing copies of such laws, rules and regulations, manuals or guides. All moneys collected for sales tax shall be remitted to the Board of Equalization.

7599.72. The department shall receive and account for all money derived from the operation of this chapter and, at the end of each month, shall report that money to the State Controller and shall pay it to the State Treasurer, who shall keep the money in the Private Investigator Fund.

7599.73. Application or licensee fees shall not be refunded except in accordance with Section 158.

7599.74. All money derived from Section 7591.9 is hereby continuously appropriated to the bureau to support the bureau's enforcement program.

7599.75. There shall be a separate budget and expenditure statement and a separate revenue statement outlining all moneys derived from and expended for the licensing and regulation of alarm company operators and alarm agents in accordance with the provisions of this chapter.

All moneys derived from the licensing of alarm company operators and alarm agents shall be expended exclusively on the regulation of alarm company operators and alarm agents.

If at the end of any fiscal year, the moneys derived from the licensing of alarm company operators and alarm agents is in surplus in an amount which equals or is more than the moneys necessary for the regulation of alarm company operators and alarm agents for the next two fiscal years, license or other fees shall be reduced, during the following fiscal year in an amount which will reduce any surplus moneys derived from the licensing of alarm company operators and alarm agents to an amount less than the moneys expended for the regulation of alarm company operators and alarm agents for the next

two fiscal years.

This section shall become operative on and after July 1, 1983.

SEC. 13. It is the intent of the Legislature, if this bill and Assembly Bill 2456 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 Assembly Bill 2456, 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 3.5, 4.5, 6.5, and 7.5 of this act. Therefore, Sections 3.5, 4.5, 6.5, and 7.5 of this act shall become operative only if this bill and Assembly Bill 2456 are both chaptered and become effective January 1, 1983, both amend Sections 7512.4, 7514, 7521, and 7523, and this bill is chaptered after Assembly Bill 2456, in which case Sections 3, 4, 6, and 7 of this act shall not become operative.

SEC. 14. It is the intent of the Legislature, if this bill and Assembly Bill 3484 are both chaptered and become effective January 1, 1983, both bills amend Section 7550.5 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 3484, that the amendments to Section 7550.5 proposed by both bills be given effect and incorporated in Section 7550.5 in the form set forth in Section 9.5 of this act. Therefore, Section 9.5 of this act shall become operative only if this bill and Assembly Bill 3484 are both chaptered and become effective January 1, 1983, both amend Section 7550.5, and this bill is chaptered after Assembly Bill 3484, in which case Section 9 of this act shall not become operative.

SEC. 15. 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 1211

An act to add Section 11017.6 to the Government Code, relating to administrative regulations.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 11017.6 is added to the Government Code, to read:

11017.6. Every state agency responsible for implementing a

statute which requires interpretation pursuant to the Administrative Procedure Act shall prepare, by January 30 of each year, a rulemaking calendar for that year. The rulemaking calendar shall be prepared in accordance with a format specified by the Office of Administrative Law, approved by the head of the department or, if the rulemaking agency is an entity other than a department, by the officer, board, commission, or other entity which has been delegated the authority to adopt, amend, or repeal regulations, and published in the California Administrative Notice Register. The preparation of the rulemaking calendar shall not preclude adoption of a regulation that is not included in the rulemaking calendar but which is required by circumstances not reasonably anticipated at the time that the rulemaking calendar is prepared.

The rulemaking calendar shall consist of two schedules as follows:

(a) A schedule which describes the rulemaking necessary to implement statutes enacted during the previous year. The schedule shall include the projected dates on which the agency plans to:

(1) Publish the notice of proposed action for each rulemaking.

(2) Schedule a public hearing if one is required or requested.

(3) Adopt the regulations.

(4) Submit the regulations to the Office of Administrative Law for review.

In addition, the schedule shall identify the organizational unit within the agency which is responsible for each rulemaking and the name and telephone number of the agency officer to whom inquiries concerning the rulemaking may be directed.

(b) A schedule which describes all other rulemaking the agency plans to propose, to implement or interpret other statutes enacted during years prior to the previous year. The schedule shall contain the same information concerning rulemaking as is required in the schedule prepared under subdivision (a), and a report on the status of all uncompleted rulemaking that was described on previous calendars.

In addition to publishing the rulemaking calendar in the California Administrative Notice Register, state agencies subject to the provisions of this section shall send the calendar to the author of each statute enacted during the previous year for which the agency has responsibility, together with an explanation of the priority the agency has given the statute in the rulemaking calendar.

CHAPTER 1212

An act to amend, repeal, and add Section 1804 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 1804 of the Vehicle Code is amended to read:

1804. The abstract shall be made upon a form furnished or approved by the department and shall contain all necessary information to identify the defendant, the date and nature of the offense, the commercial or noncommercial nature or the license plate number of the vehicle involved in the offense, the date of hearing, and the judgment.

As to any abstract for which the original arrest and final conviction was for a violation of Section 23101 or 23102, as those sections read before January 1, 1982, or Section 23152 or 23153, the abstract shall contain a statement indicating the percentage of alcohol, by weight, in the person's blood whenever that percentage was determined by a chemical test. The information regarding the chemical test shall be compiled only when it is readily available to the clerk of the court. All information required to be compiled pursuant to this paragraph shall be kept confidential in the records of the department and shall not be reported upon any driving record of any individual. The information required to be compiled pursuant to this paragraph shall not be released to any other public or private agency, except for research and statistical summary purposes and, for those purposes, the name and address of the person and any other identifying information shall not be disclosed.

The Legislature finds and declares that blood-alcohol percentages have valuable research potential in providing statistical summary information on impaired drivers but that a specific blood-alcohol percentage is only an item of evidence for purposes of criminal and licensing sanctions imposed by law. The Legislature recognizes that the accuracy of the determination of a specific blood-alcohol percentage is not the critical determination in a conviction for driving under the influence of an alcoholic beverage if the blood-alcohol percentage exceeds the statutory amount. The Legislature finds and declares that the blood-alcohol percentage should not be used by the department for imposing licensing sanctions and the greater or lesser amount of the blood-alcohol percentage should not be used for any other rating purposes.

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 on or before January 1, 1989, deletes or extends that date.

SEC. 2. Section 1804 is added to the Vehicle Code, to read:

1804. The abstract shall be made upon a form furnished or approved by the department and shall contain all necessary information to identify the defendant, the date and nature of the offense, the commercial or noncommercial nature or the license

plate number of the vehicle involved in the offense, the date of hearing, and the judgment.

This section shall become operative on January 1, 1989.

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 1213

An act to amend Sections 1632, 1636, and 1753 of, and to add Section 1657 to, the Business and Professions Code, relating to dentistry, and making an appropriation therefor.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 1632 of the Business and Professions Code is amended to read:

1632. The applicant shall give demonstrations of his or her skill in operative dentistry, prosthetic dentistry, diagnosis and treatment of periodontics, and his or her judgment in diagnosis-treatment planning. The examination may be supplemented by an oral examination.

SEC. 2. Section 1636 of the Business and Professions Code is amended to read:

1636. (a) Notwithstanding the provisions of subdivision (c) of Section 1628, a person who has had issued to him a degree of doctor of dental medicine or doctor of dental surgery by a foreign dental school listed by the World Health Organization, or by a foreign dental school approved by the Board of Dental Examiners, shall be eligible for examination as hereinafter provided upon complying with subdivisions (a) and (b) of Section 1628 and furnishing all of the following documentary evidence satisfactory to the board, that:

(1) He has completed in a dental school or schools a resident course of professional instruction in dentistry for the full number of academic years of undergraduate courses required for graduation.

(2) Subsequent thereto, he has had issued to him by such dental school, a dental diploma or a dental degree, as evidence of the completion of the course of dental instruction required for graduation.

(b) Examination by the board of a foreign-trained dental applicant shall be a progressive examination given in the following sequence:

(1) Examination in writing which shall be comprehensive and sufficiently thorough to test the knowledge, skill and competence of the applicant to practice dentistry, and both questions and answers shall be written in the English language.

Such written examination may be the National Board of Dental Examiners' examination. A foreign-trained applicant who passes the written examination shall be permanently exempt from retaking such examination.

Those applicants who have passed the California written examination shall be permanently exempt from retaking any written examination, except any examination required for continuing education purposes.

(2) Demonstration of applicant's skill in restorative technique. An applicant must obtain a minimum grade of 75 percent in each subsection of the restorative technique examination to be deemed to have passed such examination; provided, however, that an applicant who obtains a grade of 85 percent in any subsection of such examination shall be exempt from retaking such subsection for two years following the date of the examination in which a grade of 85 percent was obtained. Every applicant who passes the entire restorative technique examination shall be permanently exempt from retaking such examination.

(c) An applicant who has successfully completed the written examination and the restorative technique examination shall be eligible to take and shall pass the examinations in diagnosis-treatment planning, prosthetic dentistry, diagnosis and treatment of periodontics, and operative dentistry in the identical manner in which such examinations are taken by and administered to other dental applicants. Exemptions in such examinations shall be applied to foreign-trained applicants in the same manner as they are applied to other dental applicants.

(d) All exemptions previously obtained by foreign-trained applicants which have been recognized by the board shall remain in effect for two years following the effective date of the amendments to this section made at the 1975 portion of the 1975–76 session of the Legislature.

SEC. 3. Section 1657 is added to the Business and Professions Code, to read:

1657. A licensed dentist may operate one mobile dental clinic or unit registered as a dental office or facility. The mobile dental clinic or unit shall be registered and operated in accordance with regulations established by the board, provided such regulations are not designed to prevent or lessen competition in service areas. A mobile dental clinic or unit registered and operated in accordance with the rules, and which has paid the fees, which may be established by the board, shall otherwise be exempted from the provisions of this article and Article 3.5 (commencing with Section 1658).

SEC. 4. Section 1753 of the Business and Professions Code is amended to read:

1753. The board shall license as a registered dental assistant a person who submits written evidence, satisfactory to the board, of either one of the following requirements:

(a) Graduation from an educational program in dental assisting approved by the board, and satisfactory performance on a written examination required by the board. On and after January 1, 1984, every applicant seeking licensure as a registered dental assistant pursuant to this subdivision shall provide evidence of his or her satisfactory performance on a written and practical examination required by the board.

(b) Satisfactory work experience of more than 18 months as a dental assistant and satisfactory performance on a written examination required by the board. The board shall give credit toward the 18 months work experience referred to in this subdivision to persons who have graduated from a dental assisting program in a postsecondary institution approved by the Department of Education or in a secondary institution, regional occupational center, or regional occupational program, that are not, however, approved by the board pursuant to subdivision (a). Such credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis not to exceed 16 weeks. The board, in cooperation with the Superintendent of Public Instruction, shall establish the minimum criteria for the curriculum of such nonboard approved programs. Additionally, the board shall notify those programs only if the program's curriculum does not meet established minimum criteria, as established for board-approved registered dental assistant programs, except any requirement that the program be given in a postsecondary institution. Graduates of programs not meeting established minimum criteria shall not qualify for satisfactory work experience as defined by this section. In addition, on and after January 1, 1984, every applicant seeking licensure as a registered dental assistant pursuant to this subdivision shall provide evidence of his or her satisfactory performance in a written and practical examination required by the board.

The Committee on Dental Auxiliaries shall review and report to the board, on or before January 1, 1982, on the number of nonboard approved programs in existence and the minimum criteria recommended for nonboard approved programs.

CHAPTER 1214

An act to amend Sections 1043, 72000, and 84630 of, to add Section 84630.5 to, to repeal and add Part 3 (commencing with Section 4000) to, and to repeal and add Part 46 (commencing with Section 74000) to, the Education Code, relating to public education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1982 Filed with Secretary of State September 22, 1982]

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

SECTION 1. Section 1043 of the Education Code is amended to read:

1043. Upon the adoption of a resolution by the board of supervisors of the county consenting to the transfer of the functions specified in this section, the functions specified in this section shall be transferred from the county board of supervisors to the county board of education. The functions, including, but not limited to, the receipt of petition and reports and other papers, are those specified in Sections 35001, 35002, 35676, 35698, 35699, 35703, 35704, 35705, 35722, 35723, 35724, 72002, 74100, 74104, 74131, 74132, 74134, 74151, 74153, 74156, 74250, 74251, and 74295.

Upon the adoption of such resolution, any reference, with respect to that county, in such sections to the board of supervisors shall be deemed to be a reference to the county board of education of that county and any reference to the clerk of the county board of supervisors shall be deemed to be a reference to the secretary of the county board of education of that county.

SEC. 2. Part 3 (commencing with Section 4000) of the Education Code is repealed.

SEC. 3. Part 3 (commencing with Section 4000) is added to the Education Code, to read:

PART 3. COUNTY ADMINISTRATION OF DISTRICT ORGANIZATION

CHAPTER 1. OPERATIONAL PROCEDURES

Article 1. County Committees on School District Organization

4000. There is in each county, except a county which is also a city and county, a county committee on school district organization. The number of members of the county committee in each county shall be determined as provided in this article.

4001. If all of the territory of a county under the jurisdiction of the county superintendnet of schools of the county is included in one unified school district, the governing board of the unified school district shall constitute the county committee.

4002. Except as provided in Section 4001, if there are fewer than six school districts or community college districts under the jurisdiction of the county superintendent of schools of the county, he or she shall determine the number of, and appoint, the members of the county committee.

4003. In every county with six or more school districts or community college districts under the jurisdiction of the county

superintendent of schools of the county, the county committee on school district organization shall have 11 members.

4004. (a) If the number of school districts or community college districts in a county with six or more districts decreases to fewer than six, Section 4001 or 4002 shall apply, as appropriate.

(b) If the number of school districts or community college districts in a county with fewer than six districts increases to six or more, Section 4003 shall apply.

(c) Each member serving on a county committee when the number of school districts or community college districts changes as described in subdivision (a) or (b) shall serve out his or her term of office.

4005. (a) The county superintendent of schools shall call an annual meeting of the representatives of the governing board of each school district, elected pursuant to Section 35023, and the representatives of the governing board of each community college district, elected pursuant to Section 72403. This annual meeting shall be held between October 1 and December 1.

(b) The county superintendent of schools shall give notice of the annual meeting to the representatives of each governing board by prepaid mail addressed to the clerk or secretary of the governing board of each district. The notice shall be deemed sufficient and complete when deposited in the United States mail.

4006. (a) Vacancies created by the expiration of the term of office of a member of the county committee on school district organization shall be filled by the majority vote of the representatives of the governing boards at the annual meeting called and held pursuant to subdivision (a) of Section 4005.

(b) If the representatives fail to elect members to fill the vacancies on the county committee pursuant to subdivision (a), the vacancies shall be filled by the county superintendent of schools.

4007. No county superintendent of schools, employee of the office of a county superintendent of schools, employee of a school district, or employee of a community college district shall be a member of the county committee.

4008. At least two members of every county committee shall be elected from among the registered voters residing within each county supervisorial district in the county.

4009. The term of each member of the county committee shall begin upon election pursuant to Section 4006 or upon appointment pursuant to Section 4002, as appropriate, and shall be for four years.

4010. The members of the county committee shall serve without compensation. However, they shall receive reimbursement for any actual and necessary travel expenses incurred in the performance of their duties. These travel expenses shall be approved by the county board of supervisors and shall be paid out of the county general fund.

4011. (a) The county counsel, or if there is no county counsel, the district attorney, may provide legal services to the county committee.

(b) In any county in which the board of supervisors has transferred functions and duties to the county board of education pursuant to Section 1080 and the county board of education has agreed to include the expenses of the county committee in the single budget adopted pursuant to Section 1623 for which a county tax is levied, the county committee may appoint legal counsel in the same manner that the county superintendent of schools of that county may appoint counsel. The expenses of an appointment pursuant to this subdivision shall be a proper charge against the county school service fund.

4012. Within 30 days after the election or appointment of the county committee, the county superintendent of schools shall call the first meeting of the county committee, for purposes of electing a committee chairperson and a committee vice chairperson from among the members of the committee.

4013. Meetings of the county committee may be called by the chairperson, or by a quorum of the committee.

4014. For purposes of this article, a majority of the members of county committee shall constitute a quorum.

Article 2. Transfer of Duties of County Committee to County Board of Education

4020. (a) Upon the petition of the county committee on school district organization of a county, or of the county board of education of that county, the State Board of Education may order the county board of education to act as the county committee on school district organization for that county.

(b) The State Board of Education shall approve or reject a petition to transfer the duties and powers of the county committee on school district organization of a county to the county board of education of that county and shall notify the petitioning agency of its action within 90 days after receiving the petition.

4021. Upon the order of the State Board of Education issued pursuant to Section 4020, the county board of education of a county succeeds to and is vested with all duties, powers, purposes, responsibilities, and jurisdiction formerly vested in the county committee on school district organization of that county.

SEC. 3. Section 72000 of the Education Code is amended to read:

72000. (a) The first governing board of any new community college district shall, at the first meeting of the board or as soon as practicable thereafter, name the district. The district shall be designated as the "_____ (using the name of the district) Community College District." The district and its governing board may sue and be sued, and hold and convey property for the benefit of the district, in the name of the district designated pursuant to this subdivision.

(b) The governing board of a community college district may, by resolution, change the name of the district or of any of the

community colleges maintained by the district. However, the name shall continue to contain the words "Community College District" or "Community College," as appropriate.

SEC. 4. Part 46 (commencing with Section 74000) of the Education Code is repealed.

SEC. 5. Part 46 (commencing with Section 74000) is added to the Education Code, to read:

PART 46. DISTRICT REORGANIZATION OR FORMATION

CHAPTER 1. LEGISLATIVE INTENT AND DEFINITIONS

Article 1. Legislative Intent and Purpose

74000. It is the intent of the Legislature that procedures prescribed by the provisions of this part be utilized solely for purposes of reorganizing existing community college districts or forming new community college districts.

It is also the intent of the Legislature to utilize the organization of districts as they exist on January 1, 1982, and the master plan for school district organization in each county, which was developed and approved prior to January 1, 1982, as the basis for future reorganization of districts.

The Legislature hereby declares as its policy that all of the territory of the state shall be included within a community college district, except that territory located within a county where the county residents accounted for fewer than 350 units of average daily attendance in the state's community colleges during the preceding fiscal year. The territory located within such a county may be included within a community college district pursuant to the procedures prescribed by the provisions of Article 2 (commencing with Section 74130) of Chapter 2.

74001. On and after January 1, 1983, the provisions of Part 3 (commencing with Section 4000) and Articles 2 and 3 (commencing with Section 35720) of Chapter 4 of Part 21 shall apply to actions to reorganize community college districts, as may be applicable.

Article 2. Definitions

74010. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this part.

74011. "District" means a community college district.

74012. (a) "Component school district" means a high school or unified school district which is included within a community college district.

(b) "Nondistrict territory" means a high school or unified school district which is not included within any community college district.

74013. "Former district" means a district which has been wholly included in another district. The boundaries of a former district are

those of the district as it existed immediately prior to being wholly included in another district.

74014. An "action to reorganize districts" means an action to transfer all or part of a district to another district, to annex nondistrict territory to a district, to form a new district, or to otherwise alter the boundaries of a community college district, or any combination of such actions.

74015. "County committee" means the county committee on school district organization, organized and acting as provided for in Article 1 (commencing with Section 4000) of Chapter 1 of Part 3, or the county board of education, organized and acting as provided for in Article 2 (commencing with Section 4020) of Chapter 1 of Part 3, and performing the duties as described in Articles 2 and 3 (commencing with Section 35720) of Chapter 4 of Part 21.

CHAPTER 2. INITIATION OF PETITION AND LOCAL REVIEW PROCEDURES

Article 1. Transfer

74100. An action to reorganize one or more districts by the transfer of territory to another district is initiated upon the filing of a petition with the county superintendent of schools having jurisdiction. A petition to reorganize districts by the transfer of territory to another district shall be signed by either of the following:

(a) Where the petition is to transfer territory currently located in one district, at least 25 percent of the registered voters residing in the territory proposed to be transferred shall sign the petition. Where the petition is to transfer territory currently located in two or more districts, at least 25 percent of the registered voters residing in the territory proposed to be transferred in each district shall sign the petition.

(b) A majority of the members of each of the governing boards of the districts which would be affected by the proposed reorganization.

74102. In any petition to reorganize districts by transfer, there shall be designated no more than three of the petitioners as chief petitioners for the purpose of receiving notice of any public hearings to be held on the petition.

74103. The persons securing the signatures to a petition of electors to reorganize districts shall attach thereto an affidavit that all persons who signed the petition did so in the presence of the affiant and that each signature is a genuine signature of the person whose name it purports to be.

74104. The county superintendent of schools, within 30 days after the petition for reorganization is filed, shall examine the petition and, if he or she finds it to be sufficient and signed as required by law, shall transmit the petition simultaneously to the county committee, the governing board of each affected district, and the chancellor's office.

Notwithstanding any provision of this article to the contrary, if the transfer involves a minor change in district boundaries, defined as a transfer of territory involving less than 5 percent of the territory of the district from which the transfer is being made, the petition may be transmitted directly to the county board of supervisors by the county superintendent of schools, without submission to the county committee on school district organization. The procedure specified in this paragraph may not be utilized more than once every five years.

74105. Within 90 days after receipt of the petition, the county committee shall hold one or more public hearings on the petition at a regular or special meeting in each of the districts affected by the petition. Notice of the public hearing shall be given at least 10 days in advance of the date of the hearing to the chief petitioners, to the governing board of all districts affected by the proposed transfer, and to all other persons requesting notice of the hearing.

74106. (a) The county committee may add to the petition any appropriate provisions which were not included in the petition as filed, and may amend any provision which was so included.

(b) At least 10 days before the public hearing on the petition, the county committee shall make available to the public and to the governing boards affected by the petition, a description of the petition and a report which includes a description or analysis of all the following:

(1) The rights of the employees in the affected districts to continued employment.

(2) The financial impact of the proposed change on each affected district.

(3) Whether the districts involved will be governed, in part, by provisions of a city charter and, if so, in what way.

(4) A description of the territory affected.

(5) A description of how the property, obligations, and bonded indebtedness of existing districts will be divided.

(6) Whether the reorganization will significantly affect racial or ethnic composition of districts.

(7) Determination of impact of proposed change upon boards of trustees.

(8) A draft statement of the terms of the agreement regarding all conditions of the transfer, when applicable, for consideration by governing boards of affected districts.

(9) Whether the change is compatible with the district master plan of the county.

74107. Within 90 days after affording the public an opportunity to comment on the petition, the report, and the recommendations included in the report, the county committee shall forward a copy of the petition and the report documents to each district governing board for review. No transfer shall be made unless a majority of the members of the governing board of the district to which the territory is to be transferred sign a statement agreeing to all conditions of the

transfer at a public meeting conducted for that purpose. Upon completion of the public meeting, the receiving governing board shall return the petition and statement of agreement, together with a notice of action, to the county committee.

74108. The county committee may approve a petition only if either of the following conditions are met:

(a) The petition is to transfer uninhabited territory from one district to another and the owner of the territory, or a majority of the owners of the territory, and the governing board of the receiving district involved in the transfer consent to the transfer.

(b) The petition is to transfer inhabited territory and all the following conditions are satisfied.

(1) The governing board of the receiving district has consented to all conditions of transfer by an agreement signed by a majority of the members of the board.

(2) The county committee finds that:

(A) The transfer will not result in any increased cost to the state.

(B) The transfer will not result in a reduction in state aid to community college districts not party to the petition.

(C) The reallocation of local property tax revenues has been accurately determined and will be appropriately transferred.

(D) The transfer will not significantly affect the racial or ethnic composition of the districts affected.

(E) The transfer will not decrease educational opportunities for residents of all districts involved.

74109. Whenever a county committee approves a petition, within 10 days it shall transmit a copy of the approved petition, together with any related information or recommendations, to the Chancellor of the California Community Colleges for review.

74110. Whenever a county committee rejects a petition, it shall notify the chief petitioners of its action and provide in writing the basis for rejection.

The county committee need not accept a new petition on the same territory filed within 12 months of its decision.

Article 2. Annexation

74130. Provisions of this article shall apply only to petitions to include in an existing community college district a high school or unified school district which is contiguous to that community college district and presently not in any community college district subject to provisions of Section 74000.

74131. An action to annex nondistrict territory to an existing community college district is initiated upon the filing with the county superintendent of schools having jurisdiction of a petition signed by any one of the following:

(a) At least 25 percent of the registered voters residing in the nondistrict territory to be annexed. If two or more high school or unified school districts are involved, the petition shall be signed by

at least 25 percent of the registered voters in each school district.

(b) A majority of the members of the governing board of any high school or unified school district proposing annexation.

(c) A majority of the members of the governing board of the community college district which would receive the annexed territory under the proposal.

74132. (a) A petition initiated under subdivision (a) or (b) of Section 74131 shall be filed with the county superintendent of schools having jurisdiction over the nondistrict territory.

(b) A petition initiated under subdivision (c) of Section 74131 shall be filed with the county superintendent of schools having jurisdiction over the community college district.

74133. The provisions of Sections 74102 and 74103 shall apply to a petition for annexation.

74134. Within 30 days after the petition for reorganization is filed, the county superintendent of schools shall examine the petition and, if he or she finds it to be sufficient and signed as required by law, shall transmit the petition simultaneously to each of the following:

(a) The governing board and district superintendent of each district affected by the proposed annexation.

(b) The county superintendent and county committee of each county which has jurisdiction over any district affected by the proposed annexation.

(c) The chancellor's office.

When applicable, the provisions of Article 4 (commencing with Section 74180) shall also control.

74135. (a) The county committee may add to the petition any appropriate provisions which were not included in the petition as filed, and may amend any such provision which was so included.

(b) At least 10 days before the public hearing on the petition, the county committee shall make available to the public and to the governing boards affected by the petition, a description of the petition and a report which includes a description or analysis of the impact of the proposed change upon the following:

(1) Funding of each affected unified or high school and community college district, including determination of level and sources of local property or special taxes to be levied for general purposes of the recipient community college district.

The property tax contribution to the district shall not be less than the proportion that the tax levied in the 1977–78 fiscal year in the territory affected pursuant to the provisions of former Chapter 8 (commencing with Section 2100) of Part 2 bore to the total property tax levied in that territory in the 1977–78 fiscal year.

Alternative sources of local tax contribution to the recipient district, as may be permitted by law, shall be included in the committee's report.

(2) Existing property, obligations, and bonded indebtedness.

(3) Racial or ethnic composition of the recipient district.

(4) Governing board of recipient district.

(5) County district master plan.

(6) Any matter considered significant by the county committee.

74136. Within 90 days after affording the public an opportunity to comment on the petition, the report, and the recommendations included in the report, the county committee shall forward a copy of the petition and the report to each affected governing board for review.

74137. The governing board of the district to which the territory is to be transferred shall set a date for a public hearing on the petition which shall be within 60 days of the receipt of the petition pursuant to subdivision (b) of Section 74134, and the county superintendent shall notify the chief petitioners of the times and places of the hearings, where appropriate. At the hearings, interested persons shall be given an opportunity to present their views on the petition. The governing board of the receiving district then shall either approve or deny the petition. No annexation shall be made unless a majority of the members of the governing board of the receiving district sign a statement agreeing to all conditions of the transfer at the hearings. Upon completion of the hearings, the governing board of the receiving district shall return the petition, together with a notice of action, to the county committee.

74138. The county committee may approve the petition only if all of the following conditions are met:

(a) The governing board of the receiving district has consented to all conditions of annexation by an agreement signed by a majority of the members of the board.

(b) The county committee finds that:

(1) The annexation will not result in any increased cost to the state.

(2) The annexation will not result in a reduction in state aid to community college districts not party to the petition.

(3) The allocation of local property tax revenues has been accurately determined and will be appropriately implemented.

(4) The annexation will not significantly affect the racial or ethnic composition of the district affected.

(5) The annexation will not decrease education opportunities for residents of districts involved.

74139. Whenever a county committee approves a petition, within 10 days it shall transmit a copy of the approved petition, together with any related information or recommendations, to the Chancellor of the California Community Colleges for review.

74140. Whenever a county committee rejects a petition, it shall notify the chief petitioners of its action and provide in writing the basis for rejection.

The county committee need not accept a new petition on the same territory filed within 12 months of its decision.

Article 3. Formation

74150. Provisions of this article shall apply only to petitions for the formation of a new community college district consisting of either nondistrict territory, territory of one or more existing community college districts, or a combination of nondistrict territory and the territory of one or more existing community college districts subject to the provisions of Section 74000.

74151. An action to form a new community college district is initiated upon the filing of a petition with the county superintendent of schools having jurisdiction. A petition to form a new community college district shall be signed by one of the following:

(a) Where the territory to be formed into the new district is not a part of an existing district, at least 25 percent of the registered voters residing in that territory shall sign the petition. Where the petition is to form a new district by combining the territory of one or more existing community college districts, at least 25 percent of the registered voters residing in each affected existing district shall sign the petition.

(b) A majority of the members of the governing board of each of the community college districts and of each of the high school or unified school districts located within the territory to be formed into a new community college district.

74152. The provisions of Sections 74102 and 74103 shall apply to a petition to form a new district.

74153. Within 30 days after the petition to form a new district is filed, the county superintendent of schools shall examine the petition, and, if he or she finds it to be sufficient and signed as required by law, shall transmit the petition simultaneously to each of the following:

(a) The governing board of each component school district and community college district affected by the proposed formation.

(b) The county superintendent and county committee of each county which has jurisdiction over each component school district and community college district affected.

(c) The chancellor's office.

74154. (a) The county committee may add to the petition any appropriate provisions which were not included in the petition as filed and may amend any provision which was so included.

(b) At least 10 days before the public hearing on the petition, the county committee shall make available to the public and to the governing boards of districts affected by the petition, a description of the petition and a report which includes a description or analysis of the impact of the proposed change on the following:

(1) Funding of each affected unified or high school and community college district, including a determination of the level and sources of local property or special taxes to be levied for general purposes of the proposed new community college district.

In those instances where the new district is formed exclusively

within nondistrict territory, the property tax contribution to the new district shall not be less than the proportion that the tax levied in the 1977–78 fiscal year in the territory affected pursuant to provisions of former Chapter 8 (commencing with Section 2100) of Part 2 bore to the total property tax levied in that territory in 1977–78.

Alternative sources of local tax contribution to the recipient district, as may be permitted by law, shall be included in the committee's report.

(2) Property, obligations, and bonded indebtedness of the new district.

(3) Racial or ethnic composition of the recipient district.

(4) Governing board of the new district.

(5) County district master plan.

(6) Any matter considered significant by the county committee.

74155. Within 90 days after affording the public an opportunity to comment on the petition, the report, and the recommendations included in the report, the county committee shall forward a copy of the petition and the report to each affected governing board for review.

74156. Each affected high school or unified school district governing board shall set a date for a hearing on the petition which shall be within 60 days of the receipt of the petition pursuant to subdivision (b) of Section 74153, and the county superintendent shall notify the chief petitioners of the times and places of the hearings, where appropriate. At the hearings, interested persons shall be given an opportunity to present their views on the petition. The affected high school or unified school district governing boards then shall either approve or deny the petition. No new district shall be formed unless a majority of the members of each affected high school or unified school district governing board sign a statement agreeing to all conditions of the formation at the hearings. Upon completion of the hearings, each affected high school or unified school district governing board shall return the petition, together with a notice of action, to the county committee.

74157. The county committee may approve the petition only if all of the following conditions are met:

(a) All of the affected high school or unified school district governing boards have consented to all conditions of the formation by an agreement signed by a majority of the members of each board.

(b) The county committee finds that:

(1) The formation will not result in any increased cost to the state.

(2) The formation will not result in a reduction in state aid to community college districts not party to the petition.

(3) The projected funding of the new district is adequate to meet its needs as projected during the first five years of operation.

(4) The allocation of local property tax revenues has been accurately determined and will be appropriately implemented.

(5) The formation will not significantly affect the racial or ethnic composition of the districts affected.

(6) The formation will not decrease educational opportunities for residents of the districts affected.

74158. Whenever a county committee approves a petition, within 10 days it shall transmit a copy of the approved petition, together with any related information or recommendations, to the Chancellor of the California Community Colleges for review.

74159. Whenever a county committee rejects a petition, it shall notify the chief petitioners of its action and provide in writing the basis for rejection.

The county committee need not accept a new petition on the same territory filed within 12 months of its decision.

Article 4. Procedures for Districts Located Within Different Counties

74180. Where an action to reorganize or form districts would affect territory which is located in more than one county, or which is under the jurisdiction of more than one county superintendent of schools, the proceedings to be conducted or the actions to be taken by county officers or agencies shall be conducted or taken according to the provisions of Article 3 (commencing with Section 35520) of Chapter 3 of Part 21.

CHAPTER 3. REVIEW BY STATE AGENCIES

74201. (a) Any person who questions the findings of a county committee that a proposed transfer of territory will not adversely affect the racial or ethnic composition of the colleges of the districts affected by the proposal may file an appeal with the board of governors within 30 days after a decision based upon the finding has been made. The appeal shall be based upon factual and statistical evidence.

(b) If the board of governors denies an appeal filed pursuant to subdivision (a), the decision of the county committee shall stand.

(c) If the board of governors rejects the findings of the county committee, the county committee shall hold another hearing in order to reconsider its decision based upon the findings of the board of governors.

74202. Upon receipt of an approved petition, the board of governors may make whatever inquiries or studies are necessary to validate information and recommendations submitted by the county committee prior to making a recommendation to the board of governors. When it is necessary for the board of governors to evaluate a reorganization proposal, each county superintendent of schools and every other county officer in the counties affected and the superintendents of the districts affected shall provide the information required to complete the review.

74203. The board of governors may return the petition for reorganization to the county committee for its reconsideration of

information found to be incorrect in the proposal. The county committee shall take whatever action it deems necessary to verify the original proposal or to resubmit a corrected proposal pursuant to procedures described in Sections 74105 and 74106.

74204. At least 30 days prior to the date of the hearing, the board of governors shall announce the purpose of the proposal and the time and place of the hearing to each of the following:

(a) The governing board and district superintendent of each district whose boundaries would be affected.

(b) The county superintendent and county committee of each county which has jurisdiction over any of the districts whose boundaries would be affected.

(c) The persons designated in the petitions as "chief petitioners."

74205. After affording interested persons an opportunity to present their views on the proposal, the board of governors shall give notice of approval or disapproval to the county committee and county superintendents of schools having jurisdiction over any of the districts whose boundaries would be affected by the reorganization.

Whenever a proposal is disapproved, the board of governors shall provide in writing the basis for rejection.

CHAPTER 4. ELECTIONS AND BOARD SUPERVISORS PROCEDURES

Article 1. Elections

74230. If approval is given pursuant to Section 74205 to a reorganization proposal which results in an increase in taxes levied on behalf of the districts involved or which requires changes in district governing boards, the county superintendent of schools, within 30 days after receiving notification pursuant to Section 74205, shall call an election. The election shall be called in the manner prescribed in Part 4 (commencing with Section 5000), and shall be conducted at the next available regular election scheduled in the territory of districts defined in the approved proposal according to the procedures prescribed by Sections 35757 to 35764, inclusive.

74231. If approval is given pursuant to Section 74205 to a reorganization proposal, the county superintendent of schools, within 30 days after receiving notification pursuant to Section 74205, shall call an election. The election shall be called in the manner prescribed in Part 4 (commencing with Section 5000), and shall be conducted at the next available regular election scheduled in the territory defined in the approved petition, according to the procedures prescribed by Sections 35757 to 35764, inclusive.

Article 2. Board of Supervisors Procedures

74250. After the board of supervisors receives official notification that an action to reorganize districts has been approved as provided by law, the board of supervisors shall issue an order to change

districts where required by the action, and to establish or reestablish the boundaries of the districts affected by the action. The order shall be entered in the county's record of districts.

If the action results in a change of district boundaries of the type described in Section 54900 of the Government Code, the order of the board of supervisors shall include the legal description of each district changed in the action and, immediately after making the order, the board of supervisors shall cause a copy of the order and a map or plat indicating the boundaries established for each district affected by the order to be filed as required by Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code.

74251. (a) An action to reorganize districts is complete when the board of supervisors makes the order pursuant to Section 74250.

(b) After the expiration of one year from the date of the order, the order shall be conclusive evidence that the district has been legally organized, or the boundaries legally changed, as the case may be, and no suit shall be maintained which questions the validity of the organization or change of boundaries.

(c) For purposes of district tax revenues and governance, the order shall be effective as of the beginning of the succeeding fiscal year.

CHAPTER 5. MISCELLANEOUS

Article 1. Territory of Districts

74260. On or after January 1, 1983, the boundaries of each district shall be coextensive with the boundaries of the component districts included within it, unless otherwise approved under the provisions of Sections 74108 and 74157.

74261. When the boundaries of a component school district are for any cause changed, the territory added to, or removed from, the component school district shall, at the same time, be included in, or excluded from, the district.

74262. On or after January 1, 1983, a district shall not be reorganized to include territory which is separated from other portions of the territory of the district.

74263. Whenever territory is transferred or added by means of reorganization to another district in which trustee areas have been established, the territory being transferred shall become a part of the trustee areas to which it is contiguous. In the event that the territory being transferred is contiguous to more than one trustee area, terms of agreement to the transfer may include provisions for the division of the transferred territory among the trustee areas to which it is contiguous.

74264. Territory within the boundaries of a city may not be withdrawn from a district governed by a board provided for in the charter of the city without the consent of the governing board of the

district.

Article 2. Personnel in Reorganized Districts

74270. The reorganization of any district or districts shall not affect the classification of certificated employees already employed by any district affected. Such employees shall have the same status with respect to their classification by the district, including time served as probationary employees of the district, after the reorganization as they had prior to it. If the reorganization results in the college or other place in which any such employee is employed being maintained by another district, the employee, if a permanent employee of the district which formerly maintained such college or other place of employment, shall be employed as a permanent employee of the district which thereafter maintains the college or other place of employment, unless the employee elects prior to February 1 of the year in which the action will become effective for all purposes to continue in the employ of the first district.

If the employee is a probationary employee of the district which formerly maintained the college or other place of employment, he or she shall be employed by the district which thereafter maintains the college or other place of employment, unless the probationary employee is terminated by the district pursuant to Section 44948, 44949, or 44955, and, if not so terminated, his or her status with respect to classification by that district shall be the same as it would have been had the college or other place of employment been continued to be maintained by the district which formerly maintained it. As used in this paragraph, "the college or other place in which any such employee is employed" and all references thereto, includes, but is not limited to, the services or program which, as a result of any reorganization of a district, will be provided by another district, regardless of whether any particular building or buildings in which that service or program was conducted is physically located in the new district and regardless of whether any new district resulting from the reorganization elects to provide for the education of its students by contracting with another school district until such time as the district constructs its own facilities.

74271. The reorganization of any district, or districts, shall not affect the rights of persons employed in positions not requiring certification qualifications to retain the salary, leaves, and other benefits which they would have had had the reorganization not occurred, and in the manner provided in this section:

(a) All employees of every district which is included in any other district shall become employees of the new district.

(b) When a portion of the territory of any district becomes part of another district, employees regularly assigned to perform their duties in the territory affected shall become employees of the acquiring district. Employees whose assignments pertained to the affected territory, but whose employment situs was not in such

territory, may elect to remain with the original district or become employees of the acquiring district.

(c) When the territory of any district is divided between, or among, two or more districts and the original district ceases to exist, employees of the original district regularly assigned to perform their duties in any specific territory of such district shall become employees of the district acquiring the territory. Employees not assigned to specific territory within the original district shall become employees of any acquiring district at the election of the employees.

(d) Employees regularly assigned by the original district to any college in the district shall be employees of the district in which the college is located. Except as provided in this section, nothing in this section shall deprive the governing board of the acquiring district from making reasonable reassignments of duties.

Article 3. Disposition of Records, Funds, Property, and Obligations When Reorganized

74280. The agreement of transfer required by Section 74107 shall provide for the allocation of funds, property, and obligations affected by the transfer, except for bonded indebtedness. The following procedure may be used to determine such allocation:

(a) The real property and personal property and fixtures normally situated thereat shall be the property of the district in which the real property is located.

(b) All other property, funds, and obligations, except bonded indebtedness, shall be divided pro rata among the districts in which the territory of the former district is included. The basis for the division and allocation shall be the assessed valuation of the part of the former district which is included within each of the districts.

74281. If a dispute arises between the governing boards of the districts concerning the division of funds, property, or obligations, a board of arbitrators shall be appointed which shall resolve the dispute. The board shall consist of one person selected by the district from which the territory is withdrawn, one person selected by the district of which it has become a part, and a third person appointed by the county superintendent of schools having jurisdiction. If more than one county superintendent of schools has jurisdiction over the affected districts, county superintendents involved shall jointly appoint an arbitrator. The districts involved may mutually agree that the person appointed as arbitrator by the county superintendent of schools may act as sole arbitrator of the matters to be submitted to arbitration. The necessary expenses and compensation of the arbitrators shall be divided equally between the districts, and the payment of the portion of the expenses is a legal charge against the funds of the school districts. The arbitrator or arbitrators shall make a written finding on the matter submitted to arbitration. The written finding and determination of a majority of the board of arbitrators is final and binding upon the districts submitting the question to the

board of arbitration.

74282. Any funds derived from the sale of the bonds issued by the former district shall be used for the acquisition, construction, or improvement of college property only in the territory which comprised the former district or to discharge the bonded indebtedness of the former district, except that if the bonded indebtedness is assumed by the new district, the funds may be used in any area of the new district for the purposes for which the bonds were originally voted.

74283. If all the territory of any district becomes part of two or more districts, and the inclusion in the two or more districts of the several portions of territory comprising the whole of the original district is effective for all purposes on the same date, the records of the original district shall be disposed of as follows:

(a) All records of the original district which are required by law to be kept on file shall be deposited with the governing board of the district which, after the reorganization has become effective for all purposes, has located within its boundaries the former office of the superintendent of the original district.

(b) Records of employees shall be transferred to the district thereafter employing the personnel or thereafter maintaining the last place of employment.

(c) Records of students shall be transferred to the district which, after the date on which the reorganization becomes effective for all purposes, maintains the college in which a student was last enrolled.

74284. Notwithstanding any provisions of this article, exchanges of property tax revenues between districts as a result of reorganization shall be determined pursuant to subdivision (h) of Section 99 of the Revenue and Taxation Code.

Article 4. Bonded Indebtedness of Districts When Reorganized

74290. The provisions of this article shall apply only to the reallocation of bonded indebtedness incurred prior to July 1, 1978.

74291. When a district is reorganized, the liability for taxation for the outstanding bonded indebtedness of the district or the territory affected thereby is as provided in this article. The authorities whose duty it is to levy taxes for the payment of principal and interest on the outstanding bonds shall levy the taxes upon the districts affected in such proportions as are provided in, or are determined under, the authority of this article.

74292. No territory shall be taken from any district having any outstanding bonded indebtedness and made a part of another district where the action, if taken, would so reduce the last equalized assessed valuation of a district from which the territory was taken that the outstanding bonded indebtedness of the district would exceed 5 percent of the assessed valuation remaining in the district for the level maintained, on the date the reorganization is effective.

74293. When any district is in any manner merged with one or

more districts so as to form a single district by any procedure, the district so formed is liable for all of the outstanding bonded indebtedness of the districts united or merged.

74294. When territory is taken from one district and transferred to another district and the area transferred contains no college property or buildings, the territory shall drop any liability for outstanding bonded indebtedness in the district of which it was formerly a part and shall automatically assume its proportionate share of the outstanding bonded indebtedness of the district of which it becomes a part.

74295. (a) When territory is taken from one district and transferred to another district by any procedure and the area transferred contains college buildings or property, the district to which the territory is annexed shall take possession of the building and the equipment on the day when the annexation becomes effective for all purposes. The territory transferred shall cease to be liable for the bonded indebtedness of the district of which it was formerly a part and shall automatically assume its proportionate share of the outstanding bonded indebtedness of any district of which it becomes a part.

(b) The acquiring district shall pay the original district the greatest of the amounts determined under provisions of paragraph (1) or (2).

(1) The proportionate share of the outstanding bonded indebtedness of the original district, which proportionate share shall be in the ratio which the total assessed valuation of the transferring territory bears to the total assessed valuation of the original district in the year immediately preceding the date on which the annexation is effective for all purposes. This ratio shall be used each year until the bonded indebtedness for which the acquiring district is liable has been repaid.

(2) That portion of the outstanding bonded indebtedness of the original district which was incurred for the acquisition or improvement of school lots or buildings, or fixtures located therein, and situated in the territory transferred.

(c) The county board of supervisors shall compute for the reorganized districts an annual tax rate for bond interest and redemption which will include the bond interest and redemption on the outstanding bonded indebtedness specified in paragraph (1) or (2) of subdivision (b). The tax rate shall be levied in excess of any other ad valorem property tax authorized or required by law and shall not be included in the computation of the limitation specified in subdivision (a) or Section 1 of Article XIII A of the California Constitution.

SEC. 6. Section 84630 of the Education Code is amended to read:

84630. For the 1981–82 fiscal year, in the event that General Fund appropriations and local property tax and other local tax revenues allocated to community college districts are less than the amounts computed for all districts for the fiscal year, pursuant to Section

84605, the chancellor shall apportion general aid to the community college districts according to the following procedure:

(a) The chancellor shall fund in total for all community college districts the base as specified in Section 84604, less the workload adjustment as specified in Section 84606 or 84607 for districts experiencing a loss in either noncredit or credit average daily attendance, and the following purposes in the following order:

(1) Inflation adjustments calculated pursuant to Section 84608.

(2) Lease and capital outlay commitments calculated pursuant to Section 84609.

(3) Workload increases in accordance with subdivision (g) of Section 84605.

(4) Program changes calculated pursuant to Section 84640.

(b) Unless otherwise provided in this article, in cases where total available funds are less than the total amount calculated for all districts for a particular purpose, the chancellor shall apportion funds for that purpose to each district eligible for the funds by multiplying the amounts determined in paragraphs (1) and (2):

(1) The total amount available for the purpose divided by the total of all districts' calculated amounts for that purpose.

(2) The calculated amount for that purpose for the district during the fiscal year.

SEC. 7. Section 84630.5 is added to the Education Code, to read:

84630.5. (a) For the 1982–83 fiscal year, if General Fund appropriations and local property tax and other local tax revenues allocated to community college districts are less than the amounts computed for all districts for the fiscal year, pursuant to Section 84620, the chancellor shall apportion general aid to the community college districts according to the procedure prescribed by this section.

(b) The chancellor shall fund in total for all community college districts the base as specified in Section 84620, less the workload adjustment as specified in Section 84606 or 84607 for districts experiencing a loss in either noncredit or credit average daily attendance, plus the workload adjustments specified in Section 84606 or 84607 for shifts in average daily attendance between credit and noncredit categories required due to implementation of the course classification system, and the following purposes in the following order:

(1) Lease and capital outlay commitments calculated pursuant to Section 84609.

(2) Inflation adjustments calculated pursuant to Section 84608.

(3) Workload increases in accordance with subdivision (g) of Section 84605.

(4) Program changes calculated pursuant to Section 84640.

(c) Unless otherwise provided in this article, in cases where total available funds are less than the total amount calculated for all districts for a particular purpose, the chancellor shall apportion funds for that purpose to each district eligible for the funds by multiplying

the amounts determined in paragraphs (1) and (2):

(1) The total amount available for the purpose divided by the total of all districts' calculated amounts for that purpose.

(2) The calculated amount for that purpose for the district during the fiscal year.

SEC. 8. 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.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to apply to the reorganization of community college districts at the earliest possible time, and to facilitate the orderly administration of community college district budgets in the 1982–83 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1215

An act to amend Section 621 of, and to repeal Sections 680 and 681 of, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 621 of the Unemployment Insurance Code is amended to read:

621. "Employee" means all of the following:

(a) Any officer of a corporation.

(b) Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

(c) (1) Any individual, other than an individual who is an employee under subdivision (a) or (b), who performs services for remuneration for any employing unit if the contract of service contemplates that substantially all of such services are to be performed personally by such individual either:

(A) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for his or her principal.

(B) As a traveling or city salesperson, other than as an

agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(C) As a homeworker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him or her.

(2) An individual shall not be included in the term "employee" under the provisions of this subdivision if such individual has a substantial investment in facilities used in connection with the performance of such services, other than in facilities for transportation, or if the services are in the nature of a single transaction not part of a continuing relationship with the employing unit for whom the services are performed.

(d) Any individual who is an employee pursuant to Section 601.5.

(e) Any individual whose services are in subject employment pursuant to an election for coverage under any provision of Article 4 (commencing with Section 701) of this chapter.

SEC. 1.3. Section 621 of the Unemployment Insurance Code is amended to read:

621. "Employee" means all of the following:

(a) Any officer of a corporation.

(b) Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

(c) (1) Any individual, other than an individual who is an employee under subdivision (a) or (b), who performs services for remuneration for any employing unit if the contract of service contemplates that substantially all of such services are to be performed personally by such individual either:

(A) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for his or her principal.

(B) As a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(C) As a homeworker performing work, according to specifications furnished by the person for whom the services are

performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him or her.

(2) An individual shall not be included in the term "employee" under the provisions of this subdivision if such individual has a substantial investment in facilities used in connection with the performance of such services, other than in facilities for transportation, or if the services are in the nature of a single transaction not part of a continuing relationship with the employing unit for whom the services are performed.

(d) Any individual who is an employee pursuant to Section 601.5 or 686.

(e) Any individual whose services are in subject employment pursuant to an election for coverage under any provision of Article 4 (commencing with Section 701) of this chapter.

SEC. 1.5. Section 621 of the Unemployment Insurance Code is amended to read:

621. "Employee" means all of the following:

(a) Any officer of a corporation.

(b) Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

(c) (1) Any individual, other than an individual who is an employee under subdivision (a) or (b), who performs services for remuneration for any employing unit if the contract of service contemplates that substantially all of such services are to be performed personally by such individual either:

(A) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for his or her principal.

(B) As a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(C) As a homeworker performing work exclusively for his or her principal, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him or her.

(2) An individual shall not be included in the term "employee" under the provisions of this subdivision if such individual has a substantial investment in facilities used in connection with the performance of such services, other than in facilities for transportation, or if the services are in the nature of a single

transaction not part of a continuing relationship with the employing unit for whom the services are performed.

(d) Any individual who is an employee pursuant to Section 601.5.

(e) Any individual whose services are in subject employment pursuant to an election for coverage under any provision of Article 4 (commencing with Section 701) of this chapter.

SEC. 1.7. Section 621 of the Unemployment Insurance Code is amended to read:

621. "Employee" means all of the following:

(a) Any officer of a corporation.

(b) Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

(c) (1) Any individual, other than an individual who is an employee under subdivision (a) or (b), who performs services for remuneration for any employing unit if the contract of service contemplates that substantially all of such services are to be performed personally by such individual either:

(A) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for his or her principal.

(B) As a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(C) As a homeworker performing work exclusively for his or her principal, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him or her.

(2) An individual shall not be included in the term "employee" under the provisions of this subdivision if such individual has a substantial investment in facilities used in connection with the performance of such services, other than in facilities for transportation, or if the services are in the nature of a single transaction not part of a continuing relationship with the employing unit for whom the services are performed.

(d) Any individual who is an employee pursuant to Section 601.5 or 686.

(e) Any individual whose services are in subject employment pursuant to an election for coverage under any provision of Article 4 (commencing with Section 701) of this chapter.

SEC. 2. Section 680 of the Unemployment Insurance Code is repealed.

SEC. 3. Section 681 of the Unemployment Insurance Code is repealed.

SEC. 4. It is the intent of the Legislature that if this bill and Senate Bill 1755 or Senate Bill 2033, or both, are chaptered and become effective January 1, 1983, each of the bills amend Section 621 of the Unemployment Insurance Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Senate Bill 1755 are both chaptered and become effective January 1, 1983, both bills amend Section 621 of the Unemployment Insurance Code, but Senate Bill 2033 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 1755, the amendments proposed by both bills shall be given effect and incorporated in Section 621 in the form set forth in Section 1.3 of this act. Therefore, if this bill and Senate Bill 1755 are both chaptered and become effective January 1, 1983, both bills amend Section 621, this bill is chaptered after Senate Bill 1755, and Senate Bill 2033 is not chaptered or as chaptered does not amend that section, Section 1.3 of this act shall be operative and Sections 1, 1.5, and 1.7 of this act shall not become operative.

(2) If this bill and Senate Bill 2033 are both chaptered and become effective January 1, 1983, both bills amend Section 621 of the Unemployment Insurance Code, but Senate Bill 1755 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 2033, the amendments proposed by both bills shall be given effect and incorporated in Section 621 in the form set forth in Section 1.5 of this act. Therefore, if this bill and Senate Bill 2033 are both chaptered and become effective January 1, 1983, both bills amend Section 621, this bill is chaptered after Senate Bill 2033, and Senate Bill 1755 is not chaptered or as chaptered does not amend that section, Section 1.5 of this act shall be operative and Sections 1, 1.3, and 1.7 of this act shall not become operative.

(3) If this bill and Senate Bill 1755 and Senate Bill 2033 are all chaptered and become effective January 1, 1983, all three bills amend Section 621 of the Unemployment Insurance Code, and this bill is chaptered after Senate Bill 1755 and Senate Bill 2033, the amendments proposed by all three bills shall be given effect and incorporated in Section 621 in the form set forth in Section 1.7 of this act. Therefore, if this bill and Senate Bill 1755 and Senate Bill 2033 are all chaptered and become effective January 1, 1983, all three bills amend Section 621 of the Unemployment Insurance Code, and this bill is chaptered after Senate Bill 1755 and Senate Bill 2033, Section 1.7 of this act shall be operative and Sections 1, 1.3, and 1.5 of this act shall not become operative.

CHAPTER 1216

An act to add Sections 12010.5 and 12010.6 to the Government Code, relating to state employees.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 12010.5 is added to the Government Code, to read:

12010.5. Notwithstanding any other provision of statutory law, the Governor shall determine the distribution in the executive agencies of deputies or employees selected pursuant to subdivision (g) of Section 4 of Article VII of the California Constitution by civil-service-exempt officers appointed by the Governor pursuant to subdivision (f) of Section 4 of Article VII of the California Constitution, except deputies or employees subject to the consent or confirmation of the Senate.

SEC. 2. Section 12010.6 is added to the Government Code, to read:

12010.6. (a) The purpose of this section is to increase the Governor's managerial flexibility without increasing costs. It is the intent of the Legislature that positions designated as exempt from civil service by this section shall be filled by a Governor's appointment only after they are vacated by civil service employees.

(b) The Governor may designate as exempt from civil service positions in the executive agencies over which he has line responsibility and which have civil-service-exempt officers and employees appointed pursuant to subdivision (f) or (g) of Section 4 of Article VII of the California Constitution; provided that the designations shall be limited to positions covered by these subdivisions and shall not cause the total number of positions exempted under these subdivisions to exceed one-half of 1 percent of the number of full-time equivalent positions in these agencies collectively.

(c) The Governor may appoint a person to a position designated as exempt from civil service pursuant to this section only after the position is no longer held by a civil service employee.

(d) Positions designated by the Governor as exempt from civil service pursuant to this section shall be limited to those designated as managerial positions under Section 3513 by the Department of Personnel Administration.

(e) The authority to designate positions as exempt from civil service shall not result in the displacement of civil service employees and shall not result in hiring additional employees into positions not authorized in the Budget Act.

(f) The Department of Personnel Administration shall report to

the Joint Legislative Audit Committee by January 31 of each year the current percentage of civil-service-exempt officers and employees in state service.

CHAPTER 1217

An act to amend Section 12164 of the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 12164 of the Public Utilities Code is amended to read:

12164. Within five days after the mailing of written notice of removal, discharge, or suspension, any employee may file a written request with the general manager for an opportunity to be heard in his own defense or, at the employee's option, may utilize a grievance procedure if the district and a recognized employee organization have agreed after meeting and conferring in good faith pursuant to Section 3505 of the Government Code that a grievance procedure may be used in disciplinary proceedings involving removals, discharges, and suspensions as an alternative to the procedure provided for in Sections 12165 and 12166.

CHAPTER 1218

An act to amend Sections 33435 and 33438 of the Education Code, relating to schools.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 33435 of the Education Code is amended to read:

33435. The State Department of Education shall design, and the State Board of Education shall approve, additional standardized forms for all state or federal laws with new data collecting and reporting requirements which affect employees with teaching credentials and services credentials authorizing pupil personnel, health, or librarian services. The department shall distribute the forms to local governing boards no later than January 1, 1984, for use in the 1984–85 school year, except that the standardized forms

specified in paragraph (1) of Section 33433 shall be distributed by January 1, 1983, for use by districts in the 1983–84 school year. The same procedure shall be used in all subsequent years with any yearly additions or revisions being made available to local governing boards by July 1 of the school year of initial use.

SEC. 2. Section 33438 of the Education Code is amended to read:

33438. This article shall remain in effect until June 30, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1986, deletes or extends that date.

SEC. 3. Notwithstanding any provision of Chapter 6 (commencing with Section 52000) and Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code, the governing board of the Lowell Joint Union School District may use any or all of the funds apportioned to the district for the purposes of the school improvement program on a districtwide basis to equalize categorical funding among the schools of the district, provided the funds continue to be used pursuant to the authorizing school improvement legislation. In no event shall the funds supplant general fund moneys presently used for those purposes.

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 before January 1, 1986, deletes or exteds that date.

CHAPTER 1219

An act to amend Section 1152 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 1152 of the Revenue and Taxation Code is amended to read:

1152. The allocation formula to be used by each assessor is as follows:

(a) The time in state factor is the proportionate amount of time, both in the air and on the ground, that certificated aircraft have spent within the state during a representative period as compared to the total time in the representative period. For purposes of this subdivision, all time, both in the air and on the ground, that certificated aircraft have spent within the state prior to the aircraft's first entry into the revenue service of the air carrier in control of the aircraft on the current lien date shall be excluded from the time in state factor. This factor shall be multiplied by 75 percent.

(b) The arrivals and departures factor is the proportionate number of arrivals in and departures from airports within the state

of certificated aircraft during a representative period as compared to the total number of arrivals in and departures from airports during the representative period. This factor shall be multiplied by 25 percent.

(c) For the 1983–84 fiscal year and fiscal years thereafter, in computing the time-in-state factor, on each occasion during the representative period that a certificated aircraft has spent 720 or more consecutive hours on the ground, all ground time in excess of 168 hours shall be excluded from the time in state attributable to that aircraft.

(d) The time-in-state factor shall be added to the arrivals and departures factor.

(e) The figure produced by application of subdivision (d) equals the allocation to be applied to full cash value to determine the value to which the assessment ratio shall be applied.

SEC. 2. The amendment to subdivision (a) of Section 1152 of the Revenue and Taxation Code made by this act is declaratory of existing law.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency or school district for property tax revenues lost by it as the result of the amendments to subdivision (c) of Section 1152 of the Revenue and Taxation Code made by this act.

CHAPTER 1220

An act to amend Sections 20102, 20393, 20492, 20527.1, 20654.3, and 20685 of, to add Sections 20017.94, 20492.1, 20632, 20750.83, 20803.9, 20834.12, 20930.31, and 22013.10 to, the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 20017.94 is added to the Government Code, to read:

20017.94. "State safety member" also includes members employed in the Department of Parks and Recreation in the following classifications: manager I, state park; manager II, state park; manager III, state park; manager IV, state park; and manager V, state park. New incumbents to these classes who are not peace officers, shall receive the training required by the Commission on Peace Officer Standards and Training within two years of appointment.

Any person employed in one of the above classifications in the department may elect, within 90 days of the operative date of this section, to remain subject to the miscellaneous retirement benefit by filing an irrevocable notice of election with the board.

"State safety service," with respect to a member who becomes a state safety member pursuant to this section, shall also include service prior to the operative date of this section.

This section shall not become applicable to any member included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act (42 U.S.C. Sec. 418(d) (5) (A)).

SEC. 1.5. Section 20102 of the Government Code is amended to read:

20102. The board shall cause ballots to be distributed to each active and retired member of the system in advance of each election, and shall provide for the return of the voted ballots to the Secretary of State without cost to the member. The ballots cast shall be canvassed by the Secretary of State. The board may require all persons who perform election duties to certify, under penalty of perjury, that they properly performed those duties.

SEC. 2. Section 20393 of the Government Code is amended to read:

20393. Notwithstanding any other provision of this part, a member who is credited with five or more years of service shall have the right to elect, not later than 90 days after the date upon which notice of such right is mailed by this system to the member's latest address on file in the office of this system, whether to leave such accumulated contributions on deposit in the retirement fund.

A member who is credited with less than five years of service and who enters employment as a member of a public retirement system supported, in whole or in part, by state funds, including the University of California Retirement System, or as a member of a retirement system established under the County Employees Retirement Law of 1937, within six months of leaving state service, shall have the right to elect to leave such accumulated contributions on deposit in the retirement fund. Failure to make such election shall be deemed an irrevocable election to withdraw such accumulated contributions.

An election to allow accumulated contributions to remain in the retirement fund may be revoked by the member at any time, except: (1) while the member is employed in state service in a position in which the member is not excluded from membership with respect to such service; or (2) while the member is in service as a member of a public retirement system supported, in whole or in part, by state funds, including the University of California Retirement System; or (3) while the member is in service, entered within six months after discontinuing state service, as a member of a retirement system

established under the County Employees Retirement Law of 1937. All contributions accumulated up to the time of revocation may then be withdrawn. A member whose membership continues under this section is subject to the same age and disability requirements as apply to other members for service or for disability retirement. After the qualification of such member for retirement by reason of age, which shall be the lowest age applicable to any membership category in which the member has credited service, or disability, the member shall be entitled to receive a retirement allowance based upon the amount of the member's accumulated contributions and service standing to the member's credit at the time of retirement and on the employer contributions held for the member and calculated in the same manner as for other members, except that the provisions in this part for minimum service and disability retirement allowances shall not apply to the member, unless the member meets such minimum service requirements. If a basic death benefit becomes payable under Article 5 (commencing with Section 21360) of Chapter 9 of this part because of death before retirement of such a member, the average annual compensation earnable in the year preceding the date of termination of such service, rather than in the year preceding death, shall be used in computing such benefit under such Article 5 of Chapter 9.

The provisions of this section, as it read prior to June 21, 1971, shall continue with respect to a member whose membership continued under this section on such date.

SEC. 3. Section 20492 of the Government Code is amended to read:

20492. The contract shall include in this system all firemen, policemen, county peace officers, and other employees of the contracting agency, except as exclusions in addition to the exclusions applicable to state employees may be agreed to by the agency and the board. Such exclusions shall be based on groups of employees such as by departments or duties, and not on individual employees, and such exclusions of groups may be made by amendments to contracts, with respect to future entrants into such a group. The board may disapprove the exclusion of any group, if in its opinion the exclusion adversely affects the interest of this system. Membership in this system is compulsory for all employees included under a contract.

SEC. 4. Section 20492.1 is added to the Government Code, to read:

20492.1. Notwithstanding Section 20805, a contracting agency may amend its contract to remove exclusions prospectively only, and without creating liability for prior service.

SEC. 5. Section 20527.1 of the Government Code is amended to read:

20527.1. The employer contribution rate adopted under this part or because of amendments to the contract or to the Retirement Law, apply to all compensation upon the basis of which member's

contributions are deducted after those percentages became or become effective, without regard to the time when the service was rendered for which the compensation is paid.

If correction of the amount of compensation reported requires additional contracting agency contributions, such contributions shall be computed using the employer rate in effect at the time of the adjustment. All computations of contracting agency contributions made on or before January 1, 1983, as a result of correction of the amount of compensation reported are hereby ratified, confirmed, and validated and no adjustment shall be made, or right of recovery recognized, in respect to any such computation.

SEC. 6. Section 20632 is added to the Government Code, to read:

20632. An election by any member or any employer to make additional contributions in accordance with Section 20630 shall be effective only if filed with the board on or before June 30, 1983. Additional contributions may be made on and after July 1, 1983, in accordance with the terms of an election filed on or before June 30, 1983. A refund of accumulated additional contributions or an application of accumulated additional contributions as payment of any required contribution under Section 20631 shall terminate the privilege of making additional contributions if such refund or application occurs on or after July 1, 1983.

SEC. 7. Section 20654.3 of the Government Code is amended to read:

20654.3. A member of the Judges' Retirement System, the Legislators' Retirement System, the State Teachers' Retirement System, the University of California Retirement System, or a retirement system established under the County Employees Retirement Law of 1937, who has withdrawn accumulated contributions from this system shall have the right to redeposit such contributions, subject to the same conditions as imposed for redeposits of accumulated contributions by Section 20654, including such right as he would have had under Section 20023.1 had he not withdrawn his contributions.

Provisions of this section extending a right to redeposit accumulated contributions withdrawn from this system shall also apply to members of any retirement system established under Chapter 2 (commencing with Section 45300) of Division 5 of Title 4 with respect to which an ordinance complying with Section 45310.5 has been filed with and accepted by the board or any retirement system established by or pursuant to the charter of a city or city and county or by any other public agency of this state which system, in the opinion of the board, provides a similar modification of rights and benefits because of membership in this system and with respect to which the governing body of such city, city and county or public agency and the board have entered into agreement pursuant to Section 20042.

A member who elects to redeposit under this section shall have the same rights with respect thereto as a member who has elected

pursuant to Section 20393 to leave his accumulated contributions on "deposit in the fund."

Notwithstanding any other provision of this section, redeposit may be made within 90 days following the effective date of the amendment to this section during the 1973–74 Regular Session by any person who retired under the retirement system of the University of California after January 1, 1972, and prior to such effective date. Final compensation for such persons shall be computed as though retirement under this system and the university system had been concurrent.

SEC. 8. Section 20685 of the Government Code is amended to read:

20685. (a) If a basic death benefit has become or becomes payable before the payment of the total amount the member elected to pay under any election with respect to normal contributions, arrears contributions, or public service credit permitted under this part, the member's entire compensation, or the service upon which that total amount was based, as the case may be, shall be included in the computation of the portion of the death benefit which is provided in subdivision (b) of Section 21361, and the unpaid balance of the total amount shall not be paid to this system, nor shall it be included in the member's accumulated contributions which constitute a part of the basic death benefit.

(b) Any balance of any such total amount remaining unpaid at the death of the member on account of whom a special death benefit is payable or at the retirement of a member for industrial disability shall become due and payable forthwith, except that the survivor of a member who died under circumstances under which a special death benefit is payable and who had authorized payroll deductions may elect to continue such deductions from the survivor allowance in lieu of the lump-sum payment otherwise required. If the balance is not paid, the portion of such unpaid amount representing contributions on compensation earned in the membership applicable to the member at the time of injury resulting in death shall be deducted from the benefit otherwise payable and the system shall be discharged from any liability for any annuity or benefit with respect to any remainder of such unpaid contribution.

(c) Any balance of such total amount remaining unpaid at the time of retirement for service or ordinary disability, or at death, with respect to which a benefit is payable under Section 21365.5 shall become due and payable forthwith, except that the survivor of a member who died under circumstances under which a benefit under Section 21365.5 is payable and who had authorized payroll deductions may elect to continue such deductions from the survivor allowance in lieu of a lump-sum payment of the balance due. If the balance is not paid, the service credit included in the election shall be reduced proportionately and any prior service dependent on completion of payments eliminated for purposes of computing the allowance but not for purposes of determining entitlement to an

allowance.

(d) Notwithstanding any provision of subdivision (b) or (c), a member who retires after January 1, 1976, before payment of the total amount which he elected to pay, may elect to pay the balance due, or the total amount if no payroll deductions had been made prior to retirement, by deductions from his retirement allowance equal to those which he authorized as payroll deductions. In such case service credit included in the election shall not be reduced, nor shall any prior service dependent on completion of payments be eliminated for purposes of computing the allowance. Any balance of such total amount remaining unpaid upon the death of such member shall be treated in the same manner as unpaid balances are treated if a special death benefit is payable, except that the survivor of a retired member who had authorized deductions from his retirement allowance in accordance with this subdivision, and who is eligible for a monthly allowance, may elect to continue such deductions from his allowance in lieu of the lump-sum payment otherwise required.

(e) Interest paid with respect to redeposit of contributions, arrears contributions, or public service credit permitted under this part, prior to date of retirement or death of the member, shall be credited to the member's individual account. Interest paid after the date of retirement or death of the member shall be credited to the retirement fund pursuant to Section 20203.

SEC. 8.5. Section 20750.83 is added to the Government Code, to read:

20750.83. The state shall make the increased contributions required on account of liability for benefits provided by Section 20017.94 from social security contributions which would have been payable by the employer had Section 20017.94 not been enacted up to an amount necessary to fully fund the cost of such benefits.

SEC. 9. Section 20803.9 is added to the Government Code, to read:

20803.9. "State safety service," with respect to a member who becomes a state safety member pursuant to Sections 20017.93 and 20017.94, shall also include service prior to the operative date of the section as an officer or employee of the Department of Parks and Recreation or the Military Department.

SEC. 10. Section 20834.12 is added to the Government Code, to read:

20834.12. Credit for prior service shall be granted to each local member who rendered service to a public agency if that agency or a function of that agency is assumed by a contracting agency or a public agency which thereafter becomes a contracting agency.

The future annual costs incurred pursuant to this section shall be determined in the manner prescribed for actuarial investigations and valuations in Article 1 (commencing with Section 20450) of Chapter 4 of this part and shall be made public at a public meeting at least two weeks prior to the election by a public agency to be subject to the provisions of this section.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

SEC. 11. Section 20930.31 is added to the Government Code, to read:

20930.31. "Public service" with respect to a local member also means service rendered to a public agency if that agency or a function of that agency is assumed by a contracting agency or a public agency which thereafter becomes a contracting agency.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

SEC. 12. Section 22013.10 is added to the Government Code, to read:

22013.10. (a) "Policeman" as used in this part, also includes persons employed in positions set forth in Section 20017.94; provided, such designation is not contrary to any definition, ruling, or regulation relating to the term "policeman" issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(b) This section shall not become operative until such time as a ruling or regulation authorizing the inclusion of persons employed in classifications set forth in Section 20017.94 of the Government Code within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 13. 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. 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 the necessity are:

In order for the provisions of this act to become applicable to elections during 1982, it is necessary for this act to take effect immediately.

CHAPTER 1221

An act to amend Section 68511.3 of the Government Code, relating to proceedings in forma pauperis.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 68511.3 of the Government Code is amended to read:

68511.3. (a) The Judicial Council shall formulate and adopt uniform forms and rules of court for litigants proceeding in forma pauperis. Such rules shall provide: (1) for standard procedures for considering and determining applications for permission to proceed in forma pauperis, including, in the event of a denial of such permission, a written statement detailing the reasons for denial and an evidentiary hearing where there is a substantial evidentiary conflict; (2) for standard procedures to toll relevant time limitations when a pleading or other paper accompanied by such an application is timely lodged with the court and delay is caused due to the processing of the application to proceed in forma pauperis; (3) for proceeding in forma pauperis at every stage of the proceedings at both the appellate and trial levels of the court system; (4) for the confidentiality of the financial information provided to the court by such litigants; (5) that the court may authorize the clerk of the court, county financial officer, or other appropriate county officer to make reasonable efforts to verify the litigant's financial condition without compromising the confidentiality of the application; and (6) that permission to proceed in forma pauperis be granted (A) to litigants who declare under penalty of perjury that they are receiving benefits pursuant to the Supplemental Security Income (SSI) and State Supplemental Payments (SSP) programs (Sections 12200-12205.2 of the Welfare and Institutions Code), the Aid to Families with Dependent Children (AFDC) program (42 United States Code 601-644), the Food Stamp program (7 United States Code 2011-2027) or Section 17000 of the Welfare and Institutions Code and (B) to litigants who declare under penalty of perjury that their monthly income is 125 percent or less of the current monthly poverty threshold annually established by the Community Services Administration pursuant to Section 625 of the Economic Opportunity Act of 1964, as amended, and who submit a financial statement setting forth each item which makes up their monthly income in support of such averment as part of such declaration. Such rules shall further provide that the court shall grant permission to proceed in forma pauperis in any other instance in which, in its discretion, such permission is appropriate because the litigant is unable to proceed without using money which is necessary for the

use of the litigant or the litigant's family to provide for the common necessaries of life.

(b) The forms and rules shall provide for the disclosure of all of the following:

(1) The current address of the litigant, and of each adverse party if known to the litigant.

(2) The date of birth of the litigant, and of each adverse party if known to the litigant.

(3) The name of any person paid by the litigant to prepare, or to assist in the preparation of, the documents presented to the court, and the amount of money paid.

The information furnished by the litigant shall be used by the court in determining his or her ability to pay all or a portion of the fees and costs.

(c) At any time within three years after the court has granted a litigant permission to proceed in forma pauperis, the clerk of the court, county financial officer, or other appropriate county officer may notify the court of any changed financial circumstances which may enable the litigant to pay all or a portion of the fees and costs which had been waived. The court may authorize the clerk of the court, county financial officer or other appropriate county officer to require the litigant to appear before and be examined by the court; provided, that no litigant shall be required to appear more than once in any four-month period. The court may then order the litigant to pay to the county such sum and in such manner as the court believes is compatible with the litigant's financial ability.

In any action or proceeding in which the litigant whose fees and costs have been waived would have been entitled to recover those fees and costs from another party to the action or proceeding had they been paid, the court may assess the amount of the waived fees and costs against such other party and order the other party to pay that sum to the county.

Execution may be issued on any order provided for in this subdivision in the same manner as on a judgment in a civil action, and not otherwise.

(d) The clerk of the court may dispose of applications for in forma pauperis status three years after the date of filing without the need for microfilming, or the clerk may dispose of applications immediately upon their being microfilmed.

CHAPTER 1222

An act to add Chapter 1.5 (commencing with Section 11145) to Title 1 of Part 4 of the Penal Code, relating to criminal records, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. The Legislature reaffirms its commitment to protecting the youth of California by searching, on a national basis, the criminal records of prospective state and local government employees who will be working with children.

The Legislature recognizes that this national search has, until recently, been conducted using the services of the Federal Bureau of Investigation and that these services have been temporarily suspended by the Reagan administration.

Therefore, the Legislature declares that an alternative system for conducting a national search of criminal records must be established and used until the Federal Bureau of Investigation once again provides such services.

SEC. 2. Chapter 1.5 (commencing with Section 11145) is added to Title 1 of Part 4 of the Penal Code, to read:

CHAPTER 1.5. NATIONAL SEARCH OF CRIMINAL RECORDS

11145. In lieu of a national check of fingerprint records conducted by the Federal Bureau of Investigation through the California Department of Justice, state agencies shall contract with an independent vendor to conduct a national search of the individuals' criminal records, as provided in this chapter.

11146. This chapter applies to:

(a) The California Commission for Teacher Preparation and Licensing, in licensing of all teaching and services credential applicants, pursuant to Section 44341 of the Education Code.

(b) The State Department of Social Services in licensing those community care facility operators providing services to children as mandated in Section 1522 of the Health and Safety Code.

11147. In order that a thorough search may be conducted, the agencies listed in Section 11146 shall require applicants, as a condition of employment or licensing, to provide (a) their social security and drivers' license numbers, (b) educational history, (c) three personal references, (d) a five-year employment and residence history, and, (e) if appropriate, any other names they may have been known under. This information shall be provided under penalty of perjury.

11148. The agencies listed in Section 11146 may contract with any vendor demonstrating the capability to conduct such background searches in a timely manner and with the assurance of complete confidentiality. Any such vendor shall (a) be a licensed private investigator as defined in Section 7521 of the Business and Professions Code; (b) have been in business for at least five years; (c) be able to furnish bank references; (d) provide a minimum of one million

dollars ($1,000,000) in liability insurance, with the contracting agency being named as an additional insured; and (e) be able to provide services, via subcontracts if necessary, in all areas of the state.

No contract shall be let unless it provides therein that the cost per applicant for a search, including administrative costs, shall not exceed forty dollars ($40). The state shall not be liable for any amount in excess of forty dollars ($40) per applicant.

11149. In order to expedite the work of the vendor, all applications submitted to the vendor shall include the results of the fingerprint checks conducted by the California Department of Justice.

11149.1. Vendors are exempted from any provisions of Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code which prevent the vendor from conducting the national search of individual criminal records required by this chapter.

11149.2. Notwithstanding any other provision of law, applicants may be charged for the actual cost of the national search required by this statute, including administrative costs, not to exceed forty dollars ($40).

11149.3. Any vendor or employee of a vendor who knowingly furnishes a record or information obtained from a record to a person who is not authorized by law to receive the record or information shall be guilty of a misdemeanor and fined not more than five thousand dollars ($5,000), or imprisoned in a county jail for not more than one year, or both.

11149.4. Any vendor or employee of a vendor who intentionally discloses information, not otherwise public, which that person knows or should reasonably know was obtained from confidential information, shall be subject to a civil action for invasion of privacy by the individual to whom the information pertains.

In any successful action brought under this section, the complainant, in addition to any special or general damages awarded, shall be awarded a minimum of two thousand five hundred dollars ($2,500) in exemplary damages as well as attorney's fees and other litigation costs reasonably incurred in the suit.

The right, remedy, and cause of action set forth in this section shall be nonexclusive and is in addition to all other rights, remedies, and causes of action for invasion of privacy, inherent in Section 1, Article I of the California Constitution.

SEC. 3. The provisions contained in this act shall remain operative only until the Federal Bureau of Investigation reinstates its national fingerprint services.

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:

This act would provide necessary protection to the youth of the State of California.

CHAPTER 1223

An act to amend Section 6388.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 6388.5 of the Revenue and Taxation Code is amended to read:

6388.5. Notwithstanding Section 6388, whenever a new trailer or semitrailer with an unladen weight of 6,000 pounds or more which has been manufactured outside this state is purchased for use without this state and is delivered by the manufacturer or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 30 days from and after the date of delivery or whenever a new trailer or semitrailer with an unladen weight of 6,000 pounds or more which has been manufactured in this state is purchased for use without this state and is delivered by the manufacturer or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 75 days from and after the date of delivery, there are exempted from the taxes imposed by Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251) the gross receipts from the sale of and the storage, use or other consumption of the vehicle within the state, provided that the purchaser furnishes the following to the manufacturer or dealer:

(a) Written evidence of an out-of-state license and registration for the vehicle.

(b) The purchaser's affidavit attesting that he or she purchased the vehicle from a dealer at a specified location for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both.

(c) The purchaser's affidavit that the vehicle has been moved or driven to a point outside this state within the appropriate period of either 30 days or 75 days of the date of the delivery of the vehicle to

him or her.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1224

An act to amend Section 53638 of the Government Code, relating to local agencies.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 53638 of the Government Code is amended to read:

53638. (a) The deposit shall not exceed the total of the paid-up capital and surplus of any depositary bank. For the purposes of this subdivision, paid-up capital shall be deemed to include capital notes and debentures.

(b) The deposit shall not exceed the total of the net worth of any depositary savings and loan association, except that deposits not exceeding a total of five hundred thousand dollars ($500,000) may be made to a savings and loan association without regard to the net worth of that depositary, if such deposits are insured or secured as required by law.

CHAPTER 1225

An act to amend Sections 401, 402, 409, 1030, 1332, 3701, and 4701 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 401 of the Unemployment Insurance Code is amended to read:

401. There is in the department an Appeals Division consisting of the California Unemployment Insurance Appeals Board and its employees. The appeals board consists of seven members. Five

members shall be appointed by the Governor, subject to the approval of the Senate. One member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Senate Rules Committee. Two of the members of the appeals board shall be attorneys at law admitted to practice in the State of California. The other members need not be attorneys. Each member of the board shall devote his full time to the performance of his duties. The chairman and each member of the board shall receive the annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code. The Governor shall designate the chairman of the appeals board from the membership of the appeals board. The person so designated shall hold the office of chairman at the pleasure of the Governor. The chairman shall designate a member of the appeals board to act as chairman in his absence.

SEC. 2. Section 402 of the Unemployment Insurance Code is amended to read:

402. Each member of the appeals board shall serve for a term of four years and until his successor is appointed and qualifies. The term of office of each member of the board appointed pursuant to the 1967 amendment to this section shall also be for four years; provided, however, that of the two board members first appointed pursuant to such amendments, one shall be appointed for a term which shall expire July 1, 1970, and one for a term which shall expire July 1, 1971.

A vacancy shall be filled by the appointing power by appointment for the unexpired term. A vacancy filled by the Governor shall be subject to the approval of the Senate.

SEC. 3. Section 409 of the Unemployment Insurance Code is amended to read:

409. The chairman shall assign cases before the board to any two members thereof for consideration and decision. Assignments by the chairman of members to such cases shall be rotated on such a basis so as to equalize the workload of the members but with the composition of the members so assigned being varied and changed to assure that there shall never be a fixed and continuous composition of members. Except as otherwise provided, the decision of the two members assigned the case shall be the decision of the appeals board. In the event that the two members do not concur in the decision, the chairman or another member of the board designated by the chairman shall be assigned to the panel and shall resolve the impasse. A case shall be considered and decided by the appeals board acting as a whole at the request of any member of the appeals board.

The appeals board shall meet as a whole at such times as the chairman may direct to consider and pass on such matters as the chairman may bring before it, and to consider and decide cases which present issues of first impression or which will enable the appeals board to achieve uniformity of decisions by the respective members.

The appeals board, acting as a whole, may designate certain of its

decisions as precedents. The appeals board, acting as a whole, may on its own motion reconsider a previously issued decision solely to determine whether or not such decision shall be designated as a precedent decision. Decisions of the appeals board acting as a whole shall be by a majority vote of its members. The director and the appeals board referees shall be controlled by such precedents except as modified by judicial review.

The decisions of the appeals board shall contain a statement of the facts upon which the decision is based, and a statement of the decision itself and the reasons therefor. If the appeals board issues decisions other than those designated as precedent decisions, anything incorporated in such decisions shall be physically attached to and be made a part of such decisions. All decisions designated as precedents shall be published in such manner as to make them available for public use. The appeals board may make such reasonable charge for publications as it deems necessary to defray the cost of their publication and distribution.

SEC. 4. Section 1030 of the Unemployment Insurance Code is amended to read:

1030. (a) Any employer who is entitled under Section 1327 to receive notice of the filing of a new or additional claim may, within 10 days after mailing of such notice, submit to the department any facts within its possession disclosing whether the claimant left such employer's employ voluntarily and without good cause or was discharged from such employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left such employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment, to which a transfer of the claimant by the employer is not available, and at which the spouse has secured employment. The period during which the employer may submit such facts may be extended by the director for good cause.

(b) Any base period employer who is not entitled under Section 1327 to receive notice of the filing of a new or additional claim and is entitled under Section 1329 to receive notice of computation may, within 15 days after mailing of such notice of computation, submit to the department any facts within its possession disclosing whether the claimant left such employer's employ voluntarily and without good cause or was discharged from such employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left such employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment, to which a transfer of the claimant by the employer is

not available, and at which the spouse has secured employment. The period during which the employer may submit such facts may be extended by the director for good cause.

(c) The department shall consider such facts together with any information in its possession. If the employer is entitled to a ruling under subdivision (b) or to a determination under Section 1328, the department shall promptly notify the employer of its ruling as to the cause of the termination of the claimant's employment. The employer may appeal from a ruling or reconsidered ruling to a referee within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to a referee is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or reconsidered ruling which relates to a determination which is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of such determination.

(d) For purposes of this section only, if the claimant voluntarily leaves such employer's employ without notification to the employer of the reasons therefor, and if the employer submits all of the facts within its possession concerning such leaving within the applicable time period referred to in this section, such leaving shall be presumed to be without good cause.

(e) An individual whose employment is terminated under the compulsory retirement provisions of a collective-bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

SEC. 5. Section 1332 of the Unemployment Insurance Code is amended to read:

1332. (a) The department may for good cause reconsider any determination within 15 days after an appeal to a referee is filed. If no appeal is filed, the department may for good cause reconsider any determination within 20 days after mailing or personal service of the notice of determination. The department may, if a claimant has not filed an appeal to a referee from any determination which finds that a claimant is ineligible or disqualified, for good cause also reconsider the determination during the benefit year or extended duration period or extended benefit period to which the determination relates. The department shall give notice of any reconsidered determination to the claimant and any employer or employing unit which received notice under Sections 1328 and 1331 and the claimant or employer may appeal therefrom in the manner prescribed in Section 1328.

The director shall designate individuals to review and reconsider

appealed determinations. No individual designated shall be the same individual who made the initial determination in the same matter.

(b) The department may for good cause reconsider any computation or recomputation provided for in this article during the benefit year or extended duration period to which the notice of computation or recomputation relates, except that no recomputation may be considered with respect to any issue considered or under consideration in an appeal taken from a denial of recomputation. The department shall promptly notify the claimant and each of the claimant's base period employers of the recomputation. The claimant and any base period employer may protest the accuracy of the recomputation as prescribed in Section 1330.

SEC. 6. Section 3701 of the Unemployment Insurance Code is amended to read:

3701. (a) Any employer who is entitled under Section 3654 to notice of the filing of a primary claim or additional claim and who, within 10 days after mailing of such notice, submits to the department any facts within its possession disclosing whether the exhaustee left the most recent employment with such employer voluntarily and without good cause or was discharged from such employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left such employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment, to which a transfer of the claimant by the employer is not available, and at which the spouse has secured employment, shall be entitled to a ruling as prescribed by this section. The period during which the employer may submit such facts may be extended by the director for good cause.

(b) The department shall consider such facts together with any information in its possession. If the employer is entitled to a determination pursuant to Section 3655, the department shall promptly notify the employer of its ruling as to the cause of the termination of the exhaustee's most recent employment. The employer may appeal from a ruling or reconsidered ruling to a referee within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to a referee is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or reconsidered ruling which related to a determination is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered

by the department within the time provided for reconsideration of such determination.

(c) For purposes of this section only, if the claimant voluntarily leaves such employer's employ without notification to the employer of the reasons therefor, and if the employer submits all of the facts within its possession concerning such leaving within the applicable time period referred to in this section, such leaving shall be presumed to be without good cause.

(d) An individual whose employment is terminated under the compulsory retirement provisions of a collective-bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

(e) Rulings under this section shall have the effect prescribed by Section 1032.

SEC. 7. Section 4701 of the Unemployment Insurance Code is amended to read:

4701. (a) Any employer who is entitled under Section 4654 to notice of the filing of an application or additional claim and who, within 10 days after mailing of such notice, submits to the department any facts within its possession disclosing whether the individual left the most recent employment with such employer voluntarily and without good cause or was discharged from such employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left such employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment, to which a transfer of the claimant by the employer is not available, and at which the spouse has secured employment, shall be entitled to a ruling as prescribed by this section. The period during which the employer may submit such facts may be extended by the director for good cause.

(b) The department shall consider such facts together with any information in its possession. If the employer is entitled to a determination pursuant to Section 4655, the department shall promptly issue to the employer its ruling as to the cause of the termination of the individual's most recent employment. The employer may appeal from a ruling or reconsidered ruling to a referee within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to a referee is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or

reconsidered ruling which relates to a determination which is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of such determination.

(c) For purposes of this section only, if the claimant voluntarily leaves such employer's employ without notification to the employer of the reasons therefor, and if the employer submits all of the facts within its possession concerning such leaving within the applicable time period referred to in this section, such leaving shall be presumed to be without good cause.

(d) An individual whose employment is terminated under the compulsory retirement provisions of a collective-bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

(e) Rulings under this section shall have the effect prescribed by Section 1032.

CHAPTER 1226

An act to add Chapter 2.75 (commencing with Section 1001.15) to Title 6 of Part 2 of the Penal Code, relating to diversion programs.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Chapter 2.75 (commencing with Section 1001.15) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2.75. DIVERSION FEES

1001.15. In addition to the fees authorized or required by other provisions of law, a judge may require the payment of an administrative fee, as part of an enrollment fee in a diversion program, by a defendant accused of a felony to cover the cost of processing a request or application for diversion pursuant to Chapter 2.5 (commencing with Section 1000), or Chapter 2.6 (commencing with Section 1000.6), not to exceed one hundred dollars ($100). The fee shall be payable at the time of enrollment in the diversion program. The court shall take into consideration the defendant's ability to pay, and no defendant shall be denied diversion because of his or her inability to pay.

1001.16. In addition to the fees authorized or required by other provisions of law, a judge may require the payment of an administrative fee, as part of an enrollment fee in a diversion program, by a defendant accused of a misdemeanor to cover the cost of processing a request or application for diversion pursuant to

Chapter 2.5 (commencing with Section 1000), or Chapter 2.6 (commencing with Section 1000.6), not to exceed fifty dollars ($50). The fee shall be payable at the time of enrollment in the diversion program. The court shall take into consideration the defendant's ability to pay, and no defendant shall be denied diversion because of his or her inability to pay.

1001.17. Funds collected pursuant to this chapter shall be deposited in the general fund of the county in which they are collected.

CHAPTER 1227

An act to add Sections 14999.11 and 15339 to the Government Code, relating to economic development.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Section 14999.11 is added to the Government Code, to read:

14999.11. The commission shall assist the Department of Economic and Business Development in preparing, pursuant to Section 15339, a 10-year plan for the improvement and development of the economy of the state.

SEC. 2. Section 15339 is added to the Government Code, to read:

15339. (a) In addition to the duties required of the department under this article, the department, in conjunction with the Commission for Economic Development, and the Joint Committee on the State's Economy, shall prepare a plan for developing and improving the economy of the state. The economic development plan shall cover a 10-year period and shall include, but not be limited to, the following points:

(1) A statement of the goals and priorities for economic development during the decade covered by the plan.

(2) Evaluation of the existing organizational structure of the various agencies in state government having reponsibilities for economic development.

(3) Assessment of the state's labor needs and of the role of vocational training institutions in meeting those needs.

(4) Review of the regulatory roadblocks on achieving the state's economic development goals.

(5) A proposed policy for development of transportation, water, and energy infrastructure for the state's economic development goals.

(6) Assessment and recommendations for an appropriate policy toward Baja California, Mexico, regarding the development of the

economies of both Californias on a cooperative basis.

(7) The specific role of economic development strategies such as industrial development bonds and enterprise zones in meeting the state's long-range economic development goals.

(b) The department shall submit its report to the Governor and to the Legislature by January 1, 1984.

CHAPTER 1228

An act to add Division 36 (commencing with Section 56000) to the Health and Safety Code, relating to urban development.

[Approved by Governor September 21, 1982. Filed with Secretary of State September 22, 1982.]

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

SECTION 1. Division 36 (commencing with Section 56000) is added to the Health and Safety Code, to read:

DIVISION 36. LARGE SCALE URBAN DEVELOPMENT

CHAPTER 1. LEGISLATIVE FINDINGS AND DECLARATIONS

56001. The Legislature finds and declares:

(a) That there is a severe shortage within this state of decent and affordable housing for persons of all income levels and a concurrent need for the creation of new economic opportunities to preserve and enhance the economic well-being of the state's citizens and its economy.

(b) That it is in the interest of the public health, safety, and welfare to encourage large scale urban developments, both within and without cities, which are planned and designed to provide for the development of needed housing and jobs in a balanced and pleasing environment which includes parks and open space.

(c) That it is the intent of the Legislature to provide, through this division, a legal framework and economic climate which will preserve the concepts of home rule and local control; establish a mechanism for a single combined approval process for major developments, including planning, facilities construction, and financing process; enhance the ability of local government to protect agricultural and environmental interests; and provide incentive to the private sector as means toward accomplishment of these goals.

CHAPTER 2. GENERAL PROVISIONS AND DEFINITIONS

56010. This division shall be known and may be cited as the Urban Development Incentive Act.

56011. The definitions in this chapter shall govern the construction and interpretation of this division.

50612. "Affordable housing cost" means, in the case of a person or family of low income, monthly payments for residential property consistent with the requirement of Section 50052.5. In the case of other occupant persons or families, rent for residential property shall not be more than the percentage of the adjusted income of the occupant person or family as permitted under regulations of the United States Department of Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937, but not in excess of the market rental value for comparable property and housing costs shall not be in excess of 35 percent of gross income.

56013. "Legislative body" means the elected governing body of a city, county, or city and county.

56014. "Large scale urban development" means development of a single parcel, or of separate contiguous parcels as a unified whole, of at least 1000 acres in area and which otherwise meets the criteria set forth in Section 56032.

56015. "Low and moderate income" means those income levels defined in Section 50093.

56016. "Open space" means open space land as defined in Section 65560 of the Government Code.

56017. "Site" means that land area under the jurisdiction of a legislative body circumscribed by legally defined boundaries which is proposed for, or designated as, a large scale urban development.

56018. "Sponsor" means a joint venture, a nonprofit corporation, a proprietary entity, any other legally constituted private or public entity, or some combination thereof which owns, or is the legal representative for the owner or owners of, the site.

CHAPTER 3. IMPLEMENTATION AND ADMINISTRATION

56030. The provisions of this division shall not be applicable in any city, county, or city and county, until adopted by the legislative body by ordinance.

56030.5. Each legislative body shall have the power to do all of the following:

(a) Designate the areas which may be developed as large scale urban developments.

(b) Approve, disapprove, modify, or condition each plan for the development of a large scale urban development, including design and aesthetic considerations, to ensure that the purposes of this division are carried out.

(c) Monitor each large scale urban development to ensure that the approved plan is followed and to include in each plan penalties or other provisions necessary to ensure that the plan is carried out as specified in a timely way.

(d) Adopt a schedule of fees which may be levied on, and paid by, sponsors who submit a plan for a large scale urban development

pursuant to this division; such fees may be in an amount necessary to defray all the costs of the city, county, or city and county in receiving, processing, monitoring, and enforcing the plan. If it is determined that the area is wholly or partially within the sphere of influence of a city and the city, pursuant to Section 56033.5 , assumes jurisdiction over the area by annexation, any fees therefor paid by the sponsor to the county shall be refunded.

(e) Establish, by ordinance, such other criteria in addition to those set forth in this division, and not inconsistent herewith, for a plan to qualify for certification as a large scale urban development as the legislative body may deem necessary and desirable in furtherance of the purposes of this division.

(f) Perform such other functions as are necessary to carry out its responsibilities under this division.

56031. A sponsor desiring to have a site designated as a large scale urban development shall file with the clerk of the legislative body an application therefor accompanied by a plan for such development which complies with the requirements of Section 56032 and such fee or fees as may be established pursuant to subdivision (d) of Section 56030. The clerk of the legislative body, or any other official designated by the legislative body, shall reject any application which:

(a) Lies wholly or partially outside the jurisdiction of the city, county, or city and county.

(b) Is smaller than 1,000 acres.

(c) Lies wholly or partially within an agricultural preserve created pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code).

56032. A plan for a large scale urban development shall contain, as a minimum, all of the following elements:

(a) A legal description of the exterior boundaries of the site proposed as a large scale urban development together with a map encompassing such area and delineating thereon the boundaries.

(b) A comprehensive plan for the financing of public improvements and services, including both the costs of capital outlay and the costs of operation and maintenance pursuant to Section 56036. The plan shall address public improvement financing measures to be taken in the event that the sponsor falls behind the construction schedule set out in the plan, or if the sponsor abandons the project at any point.

(c) A specific timetable for the completion of each phase of the development.

(d) A comprehensive development plan which is consistent with state and local general plan requirements, and which specifies the uses to which the proposed parcels will be dedicated. At least 20 percent of the gross acreage shall be set aside for open space or park purposes. If the comprehensive development plan is not consistent with the applicable local general plan, it shall be accompained by any necessary general plan amendment which may be considered

simultaneously with the development application. However, any amendment of the general plan pursuant to this subdivision shall not be counted as a general plan amendment for the purposes of subdivision (a) of Section 65361 of the Government Code.

(e) Information on the number of jobs to be created in the large scale urban development and an assessment of the income levels of the jobs. The plan shall provide for development of a balance of jobs and housing that would maximize the opportunities of large scale urban development residents to work there. If the legislative body finds that the sponsor is not making adequate efforts to achieve this balance between jobs and housing at the end of each three-year period following approval of the plan, the legislative body shall take whatever actions it deems necessary to ensure that balance, including halting the issuance of development approvals.

(f) A detailed plan for the provision of housing for all income ranges based on the identified housing needs created by the large scale urban development. Not less than 25 percent of the housing units shall be affordable to low- and moderate-income households. The plan shall provide that, at the end of each three-year period from the time of approval of the plan, at least 25 percent of the housing units completed or under construction shall be affordable to low- and moderate-income households. The timetable required pursuant to subdivision (c) shall provide for the development of housing in accordance with the provisions of this subdivision.

(g) An evaluation of the impact, if any, of the plan on agricultural lands located within, or in proximity to, the area to be included within the plan and on crop production of these lands. The evaluation shall include, at a minimum, an assessment of the economic impact of converting agricultural lands to other uses, the necessity of preserving lands in agricultural use, and any adverse impact which the development of a large scale urban development pursuant to this division would have on agricultural operations in proximity to the large scale urban development. The legislative body shall, based on the findings of these evaluations, require measures necessary to mitigate the adverse impact, if any, of the large scale urban development on agricultural lands and crop production within or in proximity to the proposed boundaries of the large scale urban development.

(h) A detailed plan for the development of commercial and industrial sites which may be necessary to provide a balanced economic base for the large scale urban development and to provide economic opportunities for the residents of the large scale urban development.

(i) A comprehensive plan for the development of public facilities, such as transit and schools, which may be required to meet the needs of the large scale urban development.

(j) An evaluation of impact of the plan on the capacity of existing sewer facilities and water resources in contiguous cities and in other affected areas.

(k) An evaluation of the impact of the plan on existing or planned industrial and commercial developments in contiguous cities.

(*l*) An evaluation of the impact of the plan on air and water quality within the region in which the large scale urban development is to be located and on the public service facilities within that region.

56032.5. The legislative body shall adopt such standards, regulations, and procedures as are necessary or convenient to implement the plans under this division.

56033. Within 30 working days after the filing of an application pursuant to Section 56031, the clerk of the legislative body, or any other official designated by the legislative body, shall determine whether the proposal meets the requirements of Sections 56031, 56032, and 56032.5. If the application does not meet these requirements, no further processing of the application shall occur until the sponsor submits an amended application.

56033.5. If a proposed large scale urban development lies wholly or partially within a sphere of influence of a city, as approved pursuant to Section 54774 of the Government Code, the legislative body shall notify the city. Within 30 days, the city may request and shall receive a 120-day delay in any further proceedings pursuant to this division. If the city and the legislative body agree to the proposed large scale urban development, the legislative body may resume proceedings pursuant to this division. During the 120-day delay period, the city may request and the legislative body may order modification to the proposed large scale urban development, or the city may initiate proceedings for an annexation pursuant to Section 35100 or 56195 of the Government Code. If the city obtains approval of the local agency formation commission for an annexation within the 120-day delay period, the legislative body shall suspend processing of the application until the conducting agency completes its actions. If the local agency formation commission rejects a city annexation proposal within the 120-day delay period, the legislative body may resume proceedings pursuant to this division.

56034. When it appears the plan meets the requirements of Sections 56032, 56032.5, 56033.5, 56036, and 56040, the legislative body shall schedule a public hearing on the application and plan and shall provide notice of such hearing pursuant to Section 6063 of the Government Code.

56035. (a) In addition to the notice required pursuant to Section 56034, the legislative body shall provide notice of the hearing and proposed plan to all persons, including businesses, corporations, or other public or private entities, shown on the last equalized assessment roll as owning real property within 300 feet of the property which is included within the plans and to each city, county, or city and county contiguous to the proposed site.

(b) The notice required by this section shall be given by at least one of the following methods:

(1) Direct mailing to the owners.

(2) Posting of notice by the legislative body on and off the site in the area where the large scale urban development is to be located.

(3) Delivery of notice by any means other than mail to the owners.

(4) Any other method reasonably calculated by the legislative body to provide actual notice of the hearing.

(5) Nothing in this section shall preclude the legislative body from providing additional notice by other means.

56036. (a) Prior to approving a plan pursuant to this division and the designation of a site as a large scale urban development, each public agency which would provide services to residents within the large scale urban development shall be requested to submit, within 90 days, to the legislative body information with respect to the costs to that agency of providing services to these residents. This information shall include an estimate of the costs of providing services to the large scale urban development which shall be based on the assumption that services provided to the large scale urban development will be provided at a level comparable to that provided in other jurisdictions with comparable service needs, the projected revenues from new development in the large scale urban development, and the amount of funds, if any, required by the public agency to meet the difference between the revenues generated and the costs of providing services to new residents.

(b) The legislative body, as a condition of approving a plan and designating a site, may, based on the information received pursuant to this section, require the sponsor to provide for payment of revenues to the public agency in an amount required to cover the costs of service which exceed the revenue generated. For the purposes of this subdivision, "the costs of services" shall mean the costs of providing services based on the estimates of providing services to the large scale urban development as calculated pursuant to subdivision (a) and as approved by the legislative body. "The costs of services" shall also include those costs of administration which are directly attributable to provision of services and the costs of capital outlay and maintenance which may be imposed on other jurisdictions.

56037. The legislative body may adopt an ordinance to combine and modify the procedures and requirements of any or all of the following within a single approval process to expedite its decisionmaking:

(a) The following provisions of Chapter 3 (commencing with Section 65100), of Division 1 of Title 7 of the Government Code:

(1) Article 6 (commencing with Section 65350), relating to the adoption of a general plan.

(2) Article 7 (commencing with Section 65400), relating to the administration of the general plan.

(3) Article 8 (commencing with Section 65450), relating to the authority for and scope of specific plans.

(4) Article 9 (commencing with Section 65500), relating to the

procedure for adoption of specific plans and regulations.

(5) Article 10 (commencing with Section 65550), relating to the administration of specific plans and regulations.

(b) Chapter 4 (commencing with Section 65800) of Division 1 of Title 7 of the Government Code, relating to zoning regulations, except for Sections 65852.3, 65852.7, 65860, 65863.6, 65863.7, 65913, and 65913.1.

56038. All proceedings under this division shall comply with all applicable provisions of the Knox-Nisbet Act, Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code, the Municipal Organization Act, Part 2 (commencing with Section 35000) of Division 2 of Title 4 of the Government Code, and the District Reorganization Act, Division 1 (commencing with Section 56000) of Title 6 of the Government Code.

56039. All structures constructed within a large scale urban development shall conform to all applicable local or state building standards.

56040. The legislative body is hereby designated the lead agency and shall certify an environmental impact report in accordance with the provisions of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) prior to approving a large scale urban development. When an environmental impact report has been certified for a large scale urban development pursuant to this section, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency unless one or more of the following events occur:

(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions of the environmental impact report.

(c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available. No person shall have standing to bring an action or proceeding to attack, review, set aside, void, or annul a finding of a legislative body made at a public hearing pursuant to this section unless he or she has participated in that public hearing. However, this provision shall not be applicable if the legislative body failed to give notice of the public hearing as required by law. For purposes of this provision, a person has participated in the public hearing if he or she has submitted either oral or written testimony regarding the proposed determination, finding, or decision prior to the close of the hearing.

56041. A legislative body is specifically authorized to establish a streamlined, single permit process in addition to or in conjunction with the provisions of Section 65913.3 of the Government Code, to expedite development in furtherance of the purposes of this division.

56042. The legislative body may contract with any public or private agency for services provided by that agency to a large scale urban development.

56043. If a large scale urban development is situated entirely in unincorporated territory and the legislative body determines that all or any of the necessary governmental or proprietary services required to meet the needs of the large scale urban development cannot or will not be provided by an existing public agency or privately owned public utility, the legislative body may form a county service area or annex to an existing county service area by filing, with the county recorder and other agencies required by law, the appropriate documents.

56044. No local agency shall annex any part of a large scale urban development without the approval of the legislative body which created it and without presenting a plan to the legislative body illustrating that the financing of the area to be annexed and the area not annexed will not be jeopardized and that the user fees, taxes, or other revenue sources applicable to these areas will not be higher because of the annexation.

56045. Notwithstanding Section 54790.3 of the Government Code and Section 93.1 of the Revenue and Taxation Code, no county service area created pursuant to Section 56043 shall receive an exchange of property tax revenues from another local agency without its approval.

56046. A large scale urban development shall cease to be subject to this division (a) upon completion of the large scale urban development or (b) 10 years after designation of the site by the legislative body, whichever occurs first. However, the legislative body may, upon application prior to the expiration of the 10-year period and for good cause shown, extend the expiration date.

56047. Nothing in this division shall be construed to supersede the provisions of Division 20 (commencing with Section 30000) of the Public Resources Code.

56048. If any provision of this division or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the division which can be given effect without the invalid provision or application, and to this end the provisions of this division are severable.

CHAPTER 4. HOUSING INCENTIVE REVENUE BOND ACT

56075. The Legislature intends to enact legislation creating a Housing Incentive Revenue Bond Act to enable local governing bodies to make housing loans to eligible persons.